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INSTRUCTIONS
TO
UNITED STATES MARSHALS, ATTORNEYS,
CLERKS, AND COMMISSIONERS

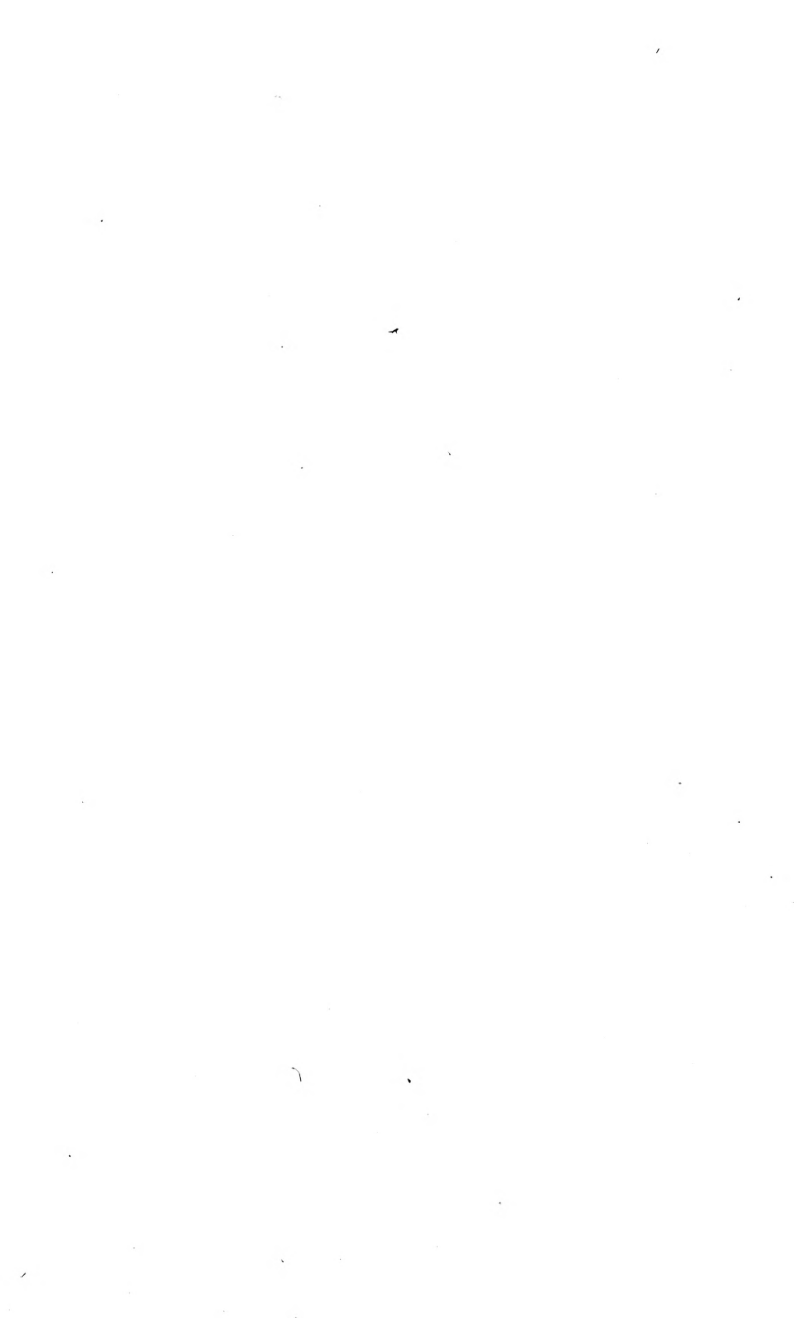
JUNE 1, 1916



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INSTRUCTIONS

TO

UNITED STATES MARSHALS, ATTORNEYS, CLERKS, AND COMMISSIONERS

[NOT APPLICABLE TO OFFICIALS IN
ALASKA, PORTO RICO, THE CANAL
ZONE, OR THE PHILIPPINE ISLANDS]

JUNE 1, 1916

SEC. 362, R. S. The Attorney General shall exercise general superintendence and direction over the attorneys and marshals of all the districts in the United States and the Territories as to the manner of discharging their respective duties, and the several district attorneys and marshals are required to report to the Attorney General an account of their official proceedings and of the state and condition of their respective offices in such time and manner as the Attorney General may direct.

SEC. 368, R. S. The Attorney General shall exercise general supervisory powers over the accounts of district attorneys, marshals, clerks, and other officers of the courts of the United States.



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*To United States marshals, attorneys, clerks, and commissioners
(other than in the Districts of Alaska, Porto Rico, The Canal Zone,
and the Philippine Islands):*

In the execution of your official duties the instructions herein given will be your guide. They supersede former instructions; become effective June 1, 1916, and remain effective until reissued, excepting in so far as they may be modified from time to time by later legislation, decisions of the courts, or the Comptroller of the Treasury, and departmental circulars.

Respectfully,

THOMAS W. GREGORY,
Attorney General

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PART ONE.

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PERSONAL ATTENTION TO BE GIVEN TO OFFICIAL DUTIES.

1. That every clerk of the district court of the United States, United States marshal, or United States district attorney shall reside permanently in the district where his official duties are to be performed, and shall give his personal attention thereto; and in case any such officer shall remove from his district, or shall fail to give personal attention to the duties of his office excepting in case of sickness, such office shall be deemed vacant: *Provided*, That in the Southern District of New York said officers may reside within 20 miles of their districts. (See Act of June 20, 1874, 18 Stat. L., 109.)

RULES FOR OFFICIAL CORRESPONDENCE WITH THE DEPARTMENT.

2. Address the head of a department or bureau (in letters and telegrams) by title, not by name, thus: "The Attorney General." Do not use the word "acting" in addressing any official.

3. Confine each communication to one subject or case; and whenever a *case* is the subject of a communication, state both the title in full and the nature.

4. In replying to a communication from the Department of Justice, mention its date, and quote the initials and file number, in the upper left-hand corner of the first page.

TELEGRAMS AND LONG-DISTANCE TELEPHONE MESSAGES.**GENERAL INSTRUCTIONS.**

5. Judgment and discretion must be observed in the use of the wire, both in the matter of determining whether any real necessity exists for its use on a given occasion and in the matter of making messages as brief as possible. Charges for manifestly unnecessary or uselessly extended messages are subject to disapproval and ultimate disallowance.

6. The cost of messages sent on official business only is chargeable against the Government. Each telegram should be marked "Official business," a copy retained for vouchering, and payment therefor made in accordance with Government rates, as fixed annually by the Postmaster General. Schedules showing such rates should be procured by application, to the Chief Clerk, Postoffice Department, Washington, D. C.

7. In counting the words of a telegram, exclude the date and place from which sent, and count the entire name of a city, town, village, State or Territory as one word.

8. The cost of telegrams and long-distance telephone messages is payable as follows:

(a) When sent by a judge, on purely judicial business; by the marshal, from "Miscellaneous Expenses, U. S. Courts."

(b) When sent by a district attorney, or any of his regular assistants, on official business; by the marshal, from "Salaries and Expenses of District Attorneys, U. S. Courts." (Office expenses.)

(c) When sent by the marshal, or any of his deputies, on official business; by the marshal, from "Salaries, Fees, and Expenses of Marshals, U. S. Courts." (Office expenses.)

(d) When sent by the clerk of the court, on business of the clerk's office; by the clerk, from his emoluments; if on *court business* as in Paragraph 8-(a).

(e) When sent by United States commissioners; by the commissioner, from private resources.

(f) When pertaining to leave of absence from duty; by the sender, from private resources. (See 6th Comp., 422.)

(g) When sent under ordinary circumstances, to reserve rooms or other accommodations; by the sender, from private resources. (See 21 Comp., 292.)

(h) When sent by the Department of Justice; from contingent or special funds not disbursed by marshals.

VOUCHERS.

9. Payments by marshals covering telegrams and long-distance telephone messages should be vouchered in duplicate on Forms 177 and 178, respectively. All companies should be requested to render bills promptly at the close of each month. All information contemplated by the forms should be shown thereon. The first certificate should be signed by the local representative of the company claiming payment, and the second by the administrative officer having knowledge of the facts and the necessity for the messages.

10. Copies of telegrams must accompany the vouchers. In exceptional cases, where it would be prejudicial to the public interests to have a message exposed, the filing of a copy may be waived, provided information is furnished which will enable the Attorney General to certify to its confidential nature. (See 4th Comp., 233.)

11. If a telegram is sent over more than one line, the names of the lines and the cost over each must be shown on the voucher. If charge is made for telephone service in connection with a telegram, this fact must be stated on the voucher and the additional cost specified.

12. The company which can reach directly over its own lines the point to which a telegram is to be sent must be used in every instance in preference to any other company.

OATHS TO EXPENSE ACCOUNTS AGAINST THE UNITED STATES.

13. The following officials and clerks are authorized and required under section 8 of the act of August 24, 1912, to administer oaths to expense accounts against the United States without charge—

- (a) Postmasters and assistant postmasters.
- (b) Collectors of customs and of internal revenue.
- (c) Chief clerks of departments and bureaus, or clerks designated by them.
- (d) Superintendents, acting superintendents, custodians and principal clerks of Government reservations, and Indian superintendencies or agencies.
- (e) Chiefs of field parties.

STATIONERY AND MISCELLANEOUS SUPPLIES.

GENERAL INSTRUCTIONS.

14. Stationery and miscellaneous supplies will be furnished directly from the Department of Justice for judges, attorneys, marshals, and for use in court rooms. Only those supplies necessary to the expeditious transaction of public business should be requisitioned. No freight charges should be paid on supplies shipped from the department.

15. Use Form 17A in making requisitions for such supplies. The instructions printed upon the form must be carefully observed. Give all needed data. Samples of articles which may not be easily described should be attached to the requisition.

16. Separate requests should be made by each official. They should cover the estimated needs for a period of six months. Sixty days should be allowed for the delivery of printed envelopes, 45 days for letterheads, and 30 days for all other articles.

17. The law requires all blanks and letterheads for judges and other court officials (unless the expense is payable from emoluments),

to be printed at the Government Printing Office upon forms prescribed by the Department of Justice. (See 28 Stat. L., 624.) The names of officials, excepting judges, will be omitted from letterheads, envelopes, and blanks.

BLANK FORMS AND DOCKETS.

18. The forms in use by court officials and the dockets furnished by the department are listed in a separate publication.

INK, MUCILAGE, AND PASTE.

19. Such supplies can only be shipped during warm weather. Annually about May 15 each marshal will make requisition on Form 17A for the mucilage, paste, and various inks which will be needed by the judges, attorney's office, marshal's office, and for court purposes during the fiscal year beginning July 1 following.

20. Such requisitions should show separately the quantity of each item on hand and the additional quantity required for each officer and for court purposes.

21. Shipments will be made on quartermaster's bill of lading to the marshal, who will cause proper distribution to be made.

RECORDS OF GOVERNMENT PROPERTY.

22. All Government property (other than stationery and fuel) should be listed of record in the office of the official in whose custody it may be and who will be held responsible therefor. Additional articles received from time to time should be added to the record, and articles authorized to be dropped should be eliminated, with notation of the cause. (See sec. 197, R. S. U. S., and Sup. R. S., vol. 2, p. 174.)

23. In order to fix responsibility for the possible loss of accountable property of the Government, officials should keep a memorandum record of all such property located at points other than general headquarters where an office is maintained, charging it to the subordinate official or employe in charge at such point.

SALE OF GOVERNMENT PROPERTY NOT IN LITIGATION.

24. Old material or other Government property not involved in suits should be sold only under authority from the Department of Justice. The net proceeds of such sales should be deposited directly with the Treasurer of the United States. (See par. 143 and 146(d).)

25. There may be paid from the proceeds of the sale of old material only the expenses directly pertaining to the sale, such as auctioneer's fees, cartage to place of sale, etc. Such expenses must be fully itemized and supported by proper vouchers. (See act of June 8, 1896, and 3 Comp. 119 and 190.)

LEAVE OF ABSENCE FROM DUTY.

26. Leave of absence from duty for marshals and district attorneys rests entirely in the discretion of the Attorney General. Application therefor should be made only when it may be granted with a minimum interference to the public service. (See 20 Op. Atty. Gen., 728.)

27. If the public service permits, marshals may grant salaried deputies and United States attorneys may grant their regular assistants and clerks leave of absence from duty not exceeding 30 days in any calendar year. They may also, in cases of sickness or unavoidable incapacity, grant such employees sick leave not exceeding 30 days in any calendar year. (See 30 Stat. L., 316, 653, and 890; 20 Op. Atty. Gen., 303 and 607; 22 Op. Atty. Gen., 77-82.)

28. A deputy marshal, assistant attorney, or clerk employed during a portion of a calendar year may be granted leave only at the rate of two and one-half days per month.

29. Proper deduction should be made from salaries covering unauthorized absence from duty.

30. *Leave is not cumulative.* Employees who are prevented by the requirements of the service or otherwise from availing themselves of the regular annual leave will not be entitled to it or any portion thereof in a subsequent year. Leave to be used in a given year and charged to a subsequent year can not be granted.

31. Sundays, legal holidays, and holidays by Executive order will be charged against the employee only in leave without pay.

32. When an employee has been exposed to a contagious disease for which the medical authorities quarantine the patient, he should immediately file a certificate from the attending physician or proper health authority stating that in his judgment the presence of the employee in the office would jeopardize the health of fellow clerks. Application for leave with pay for the time lost must be accompanied by a certificate from the health office showing that a case of contagion existed on the premises during the time covered by the application; and the attending physician must certify that all danger from contagion has passed.

33. Leave without pay may be granted only when in the opinion of the head of the office the public business will not suffer and when reasonable cause is shown.

JUDGES' STENOGRAPHERS AND MESSENGERS.

34. Stenographers and messengers for judges may be employed and paid from the appropriation "Miscellaneous expenses, United States courts," only when authorized by the Attorney General. Such employees are payable by the marshal upon vouchers certified by the judge for whom the service was rendered.

35. Every change in the person employed under a given authorization should be promptly reported to the department.

36. The services of messengers and stenographers to judges terminate with those of the judges. In case of the death of a judge, however, his stenographer is hereby authorized to remain on duty for a reasonable time to arrange papers, records, etc., for the incoming judge. It must be affirmatively shown that services were actually rendered subsequent to the death of the judge to entitle the stenographer to compensation therefor.

37. Near the close of each fiscal year, judges who desire to have their *stenographers* accompany them away from headquarters to the various places of holding court within the district, to aid in the dispatch of public business during the approaching fiscal year, should make application to the Department on Form 25B, for the authorization of such expense.

EXPENSES OF TAKING JURY TO VIEW LANDS.

38. Unless the appropriation for the proposed improvement provides specifically for such expenses, they are payable from judicial appropriations. (See 2 Comp., 201.)

39. Expenses of travel and subsistence of the marshal or the district attorney, incurred in this connection, are payable in the usual manner, subject to the usual limitations, from the appropriations "Salaries, Fees, and Expenses of Marshals, U. S. Courts," and "Salaries and Expenses of District Attorneys, U. S. Courts," respectively.

40. The expenses of the jurors and bailiff in charge are payable after they have been duly authorized by the Attorney General from the appropriation "Miscellaneous Expenses, U. S. Courts."

THE EXTRADITION OF FUGITIVES FROM THE UNITED STATES IN FOREIGN JURISDICTION.

41. The following instructions apply to cases involving violations of the Federal statutes and are for the guidance of United States attorneys and officers of the United States courts generally.

42. The preparation of the papers in accordance with the instructions will save labor and delay, the latter resulting in some instances in the release of the fugitive in the foreign jurisdiction.

ESSENTIALS THAT MUST PRECEDE THE INSTITUTION OF EXTRADITION PROCEEDINGS.

43. Before making application to the Attorney General, the United States attorney should assure himself of the existence of the following essentials:

(a) The warrant of arrest issued in this country can not be served owing to the flight of the accused to a known locality in a foreign country.

(b) A treaty of extradition is in existence between the United States and the country of asylum.

(c) The offense committed in this country is (a) among those enumerated in such foreign treaty, and (b) is made criminal by the laws of both countries.

(d) Sufficient evidence in the possession of the United States attorney for presentation to the surrendering Government to make out a strong case—such a case as would justify the committal of the accused under the laws of this country.

WHERE THE EXTRADITION TREATIES MAY BE FOUND.

44. The extradition treaties existing between the United States and foreign countries may be found printed in the several volumes of the Statutes-at-Large or in *Malloy's Treaties, Conventions, International Protocols*, etc., but if the United States attorney is unable to ascertain that a treaty exists between the United States and the country of asylum or that the offense committed in the United States is extraditable, he should apply to the Attorney General for such information prior to the preparation of the necessary papers.

PROVISIONAL DETENTION.

45. Pending the preparation of the formal papers, it is sometimes necessary to secure the arrest and provisional detention of the accused, and, in such a case, if the United States attorney fears the further flight of the fugitive, he should apply to the Attorney General, by telegram or letter, for his arrest and detention. Such application should furnish information upon the following points:

(a) The name in full of the accused and his assumed name or names, if any;

(b) A physical description of the accused;

(c) The place and address in the foreign country where the accused can be found;

(d) The date of the indictment, if an indictment has been filed;

(e) The specific offense or offenses charged;

(f) The date of the commission of the offense and the place where committed; and

(g) State whether a warrant of arrest has been issued and the reason for nonservice in this country.

46. It should be borne in mind that the request for provisional detention does not take the place of the application for extradition and the formal papers hereinafter mentioned.

ARREST AND PROVISIONAL DETENTION EFFECTED.

47. In the event the fugitive is arrested and detained in the foreign country, the United States attorney will be promptly advised

of that fact. He must then, as soon as possible, prepare the necessary papers, in duplicate, as herein instructed, and forward them to the Attorney General accompanied by a formal application.

NECESSITY OF EXPEDITION IN THE SUBMISSION OF THE FORMAL PAPERS.

48. The preparation and submission of the formal papers should be expedited as much as possible. The failure to do so may result in the escape or release of the fugitive.

49. In treaties with some foreign countries, notably Mexico, the period of detention is limited to 40 days after the arrest. In other jurisdictions, however, the practice is generally observed, after the arrest of the fugitive, to continue the hearing for a week, and, upon motion, to grant a further continuance. In some instances these continuances have been limited to two or three weeks.

THE APPLICATION FOR SURRENDER.

50. The essentials stated having been found to exist, the United States attorney should use a form similar to the following, in transmitting the formal papers to the Attorney General:

OFFICE OF UNITED STATES ATTORNEY.

The ATTORNEY GENERAL.

SIR: I have the honor to transmit herewith a copy, in duplicate, duly authenticated, of the indictment, warrant of arrest with the marshal's return thereon, and the evidence upon which the charges in the indictment are based, in the case of the U. S. *v.*, indicted, 19.., in the U. S. district court for the district of, charged with having committed the offense of in violation of and to ask that demand be made upon the Government of for the surrender of the said to be brought back to said district for trial under said indictment.

1. The name of the accused is
(Include any assumed name.)

2. His physical description is as follows:

.....
.....
.....
.....
.....
.....
.....

3. He may be found at

4. The specific offense charged against him is as follows:

(If the offense charged is embezzlement, larceny, or the like, the United States attorney should also state the actual amount involved, or describe the property taken, from whom taken, and whether it is of a public or private nature; or, in the case of injury, the name of the person injured.)

5. The offense (or offenses) was (or were) committed, 19.., at, in this judicial district.

6. I suggest as the person to be named in the President's warrant as the agent of the United States to receive and convey the fugitive to the place of trial in this district.

This request for the surrender of the fugitive is made solely for the purpose expressed in this application, and not to enforce the collection of a debt or to avoid the penalty of a bail bond, or for any private purpose, and, if the application is granted, the criminal proceedings shall not be used for any of said purposes.

Respectfully,

.....
United States Attorney.

THE SELECTION OF THE AGENT OF THE UNITED STATES.

51. In the selection of the agent to receive the fugitive from the hands of the foreign authority and convey him to this country for trial, United States attorneys should recommend some person able to identify the accused, in the event identity is not disclosed or is denied at the hearing abroad.

PAPERS TO ACCOMPANY THE APPLICATION FOR EXTRADITION.

52. As stated, two sets of the following papers, one set to be retained in the office of the Secretary of State and the other to go abroad, should accompany the application for extradition:

(a) The indictment.

(b) The warrant of arrest, with the marshal's return indorsed thereon.

(c) The evidence upon which the charges made in the indictment are based.

53. All such papers should have formal, legal captions.

THE INDICTMENT.

54. The indictment should be a true copy of that paper as filed in the office of the clerk of the United States district court. He should attach to such copy a certificate to the effect that it is a true copy of the indictment filed in the case of the U. S. v., No., pending in the United States district court for the district of To this certificate the clerk should sign his name and official title, and affix the seal of the court.

THE WARRANT OF ARREST.

55. The warrant of arrest, being also a part of the records of the court and having been returned into court with the marshal's indorsement of nonservice, in the case of a fugitive, a copy of such warrant and of the marshal's return should be prepared by the clerk and certified to in like manner as is suggested as to the copy of the indictment.

THE EVIDENCE SUPPORTING THE CHARGES IN THE INDICTMENT.

56. If the evidence was reduced to writing at the time it was given to the grand jury, it should be properly authenticated under the seal of the court and transmitted with the other papers to the Attorney Gen-

eral, but if the evidence was not so reduced, the United States attorney should secure original affidavits of a sufficient number of the witnesses who appeared before the grand jury to make a strong case.

57. The affidavits should also be prepared with formal captions, showing as well the title of the case, its docket number, and the court in which it is pending. They may be executed before any person lawfully authorized to administer oaths and to execute such papers, but preferably, in cases involving violations of a Federal statute, before a clerk or deputy clerk of a United States court, or a United States commissioner.

58. The officer before whom the affidavits or depositions are executed should affix his official signature and seal to each of them.

THE OFFICIAL IDENTITY OF THE CLERK, ETC., ESTABLISHED.

59. After the clerk, or his deputy, has certified to any paper, or the United States commissioner has affixed his jurat to any paper executed before him, his official identity should be established by the usual certificate of a judge of a United States court under the seal of the court.

AFFIDAVITS EXECUTED BEFORE STATE OFFICERS.

60. To secure the services of a Federal officer may cause delay, or the execution of affidavits before him may, for other reasons, be impracticable. In such event they may be executed before a duly authorized State officer, whether magistrate or notary public, whose official identity should be established by the certificate under seal of the governor of such State or the secretary of state.

CASES IN WHICH INDICTMENT MAY NOT HAVE BEEN FILED.

61. The filing of an indictment is not a prerequisite to the institution of extradition proceedings. They may be begun before the defendant has been indicted.

62. In such a case a copy, in duplicate, duly authenticated, of the following papers should accompany the application for extradition (similar in form to that indicated) signed by the United States attorney:

(a) Complaint properly signed and sworn to, made by an officer or person having knowledge of the facts and executed before a duly authorized officer, preferably a United States judge or a United States commissioner, or a clerk or deputy clerk of a United States court.

(b) Warrant of arrest, with the marshal's return indorsed thereon.

(c) Original affidavits reciting facts to support the charges made in the complaint. The suggestions hereinbefore made as to affidavits for use in cases where the fugitive has been indicted apply to cases where he is merely charged with having committed an offense and where an indictment has not yet been returned.

EXTRADITION PROCEEDINGS BEGUN AFTER CONVICTION.

63. Where the defendant, after trial and conviction in this country, has fled to a foreign jurisdiction, the papers necessary to secure his return should consist of a copy of so much of the record of the court as will show:

- (a) That conviction was obtained after a regular trial.
- (b) The date of such conviction.
- (c) The offense of which the fugitive was convicted.
- (d) The specific law violated.
- (e) The sentence, if imposed, and the date of such imposition.

64. If at the time of his flight the convict was at large on bail, the copy of the court proceedings should show the proceedings involving the forfeiture of his bond and the issuance, if any, of the process of court to effect his arrest.

65. The record of the court should be prepared in duplicate with proper formal captions and should be authenticated officially by the clerk of the court under its seal; the latter's official identity being established by the certificate of the United States judge under the seal of the court.

66. In making application for the extradition of the convict the United States attorney should use a form similar to the following:

OFFICE OF THE UNITED STATES ATTORNEY,
.....
.....

The ATTORNEY GENERAL.

SIR: I have the honor to advise you that was convicted
....., 19.., in the United States district court for this judicial district of
having committed the offense of in violation of
He has sought an asylum in, and I have the honor to ask that
demand be made upon the Government of that country for his return, to be brought
back to this district for sentence.

The name of the convict is (include any assumed name);
his physical description is as follows:
.....
and he may be found at

In support of this application I send herewith a copy in duplicate, duly authenticated, of so much of the record of the court as shows that the conviction was obtained after a regular trial, the date of the conviction, and the offense of which the fugitive was convicted.

I suggest as the person to be named in the President's warrant as the agent of the United States to receive and convey the fugitive to the place of trial in this district.

This request for the surrender of the fugitive is made solely for the purpose expressed in the application and not to enforce the collection of a debt or to avoid the penalty of a bail bond, or for any private purpose, and, if the application is granted, the criminal proceedings shall not be used for any of said purposes.

Respectfully,

.....,
United States Attorney.

OBLIGATIONS IMPOSED UPON THE UNITED STATES BY TREATY WITH RESPECT TO FUGITIVES FROM FOREIGN COUNTRIES WHO HAVE SOUGHT AN ASYLUM IN THIS COUNTRY.

67. Treaties existing between the United States and some foreign countries require that the legal officers of the United States shall assist the officers of the demanding Government before the respective judges and magistrates in securing the arrest and extradition of fugitives who have fled to the United States.

68. Whenever, therefore, a United States attorney is advised by the Attorney General that information has been received, through diplomatic channel, of the commission of an offense against the laws of a foreign country with which an extradition treaty exists, and is instructed to take the steps necessary to effect the arrest and detention of the fugitive pending the receipt of formal papers upon which demand for extradition will be based, he should make out a complaint before a United States judge, or United States commissioner, and ask for the issuance of the proper warrant of arrest, in order that the fugitive may be brought before a magistrate qualified to act in extradition matters for hearing and action under the procedure laid down in section 5270, R. S. U. S., or laws amendatory thereto.

69. In such cases the department has found the following form to be adaptable, but United States attorneys should not confine themselves alone to that form and its language if, in their judgment, they can be strengthened:

In the District of

In the matter of the extradition of a fugitive from the justice of

The honorable The JUDGE OF THE

Your complainant, the attorney of the United States for the district of, under oath, deposes and says:

That, in the above matter, he acts for and in behalf of the Government of

That he is informed, through diplomatic channel, that the said is duly and legally charged with having committed the crime of in the said

That the said has fled outside the boundaries of the said; that warrant for the arrest of the said can not be served in said; and that the said has sought an asylum within the jurisdiction of the United States and may be found in the State of and the city of at

That the said crime of, which the said is charged to have committed in said foreign country is among the offenses enumerated in the treaty existing between the United States and the said, proclaimed

That said crime of is more particularly referred to in article sec. of said treaty as follows:

That, through the diplomatic channel, your complainant is informed and believes that requisition for the herein-named fugitive,, is about to be made, accompanied by the formal papers upon which demand for extradition is founded;

Whereupon, your petitioner, acting under the authority and in the behalf stated, prays the consideration of this petition and that a warrant may issue for the arrest of the said charged as aforesaid, that he may be brought before a commissioner or magistrate qualified to act in extradition matters, to the end that evidence of criminality may be heard, and, if on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of said treaty, said magistrate or commissioner shall certify the same to the Secretary of State, at Washington, D. C., in order that warrant may issue upon the requisition of the proper authority of said foreign government for the surrender of the said according to the stipulations of said treaty, and for such other action as the said commissioner or magistrate is required under the provisions of said treaty and the laws of the United States to take.

Dated at

..... District }
of } ss.

Before me, for the district of personally appeared the complainant,, the attorney of the United States for the district of on the, 19.., who, being duly sworn, says that the foregoing information is true as he verily believes.

EXPENSES OF SERVICE OF PROCESS BY AGENT OF THE UNITED STATES IN BRINGING CRIMINALS BACK TO THE UNITED STATES.

70. The actual and necessary expenses incurred and paid by the agent in the execution of the President's warrant in cases of fugitives from the justice of the United States should be stated in an itemized account, supported by proper vouchers, and sworn to. The account should be forwarded to the Attorney General for transmission to the Secretary of State for audit and payment. The amount claimed by the agent as personal compensation should also be stated in the account.

PART TWO.

INSTRUCTIONS TO UNITED STATES MARSHALS.

CHAPTER I.

APPOINTMENT, QUALIFICATION, POWERS, DUTIES, AND COMPENSATION OF MARSHALS AND THEIR DEPUTIES.

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MARSHALS.

APPOINTMENT AND INDUCTION INTO OFFICE.

71. Commissions appointing United States marshals are transmitted to the United States district judge for delivery to the appointee. The appointee should be at once advised, furnished with blank forms for the execution of an official bond and oath of office, and with information as to the designation of his official residence. (See pars. 75 to 78, also 82 and 83.)

72. The appointee should execute his official bond, following closely the instructions upon the blank form. He should also confer with his predecessor in office and arrange with him concerning the date of entrance upon duty, *upon which date* the oath of office should be taken and executed in triplicate.

73. Upon taking the oath and assuming duties the marshal should immediately advise the Attorney General, the Solicitor of the Treasury, and the Commissioner of Internal Revenue accordingly.

74. The incoming marshal should receipt to his predecessor in office for all Government property turned over to him when he assumes duties; for the unexpended balance of deposits to cover costs (trust funds) which will be turned over to him; and for all unserved process, if any, seized property, etc., which he receives from his predecessor. (See pars. 97 to 102.)

OFFICIAL BONDS.

75. The amount or penalty of the official bond of a marshal is \$20,000, unless a larger bond is authorized by the Attorney General. (See secs. 2 and 3, act Feb. 22, 1875, Supp. R. S., vol. 1, p. 65.)

76. Official bonds may be given with corporate surety or with individual sureties. The former are more desirable. In case the bond has individual sureties it must not only be approved by the judge, but the judge should certify that the sureties are inhabitants and freeholders of the district. (See act Aug. 13, 1894, sec. 1, 28 Stat. L., 279, and R. S., sec. 783.)

77. The United States does not pay any part of the premium or other cost of furnishing bonds. The acceptance of bonds upon which the rate of premium is more than 35 per cent greater than the rate charged for like bonds during the calendar year 1908 is prohibited. (See 36 Stat. L., 125.) It is therefore necessary that there shall be clearly stated upon the face of every bond having a corporate surety the rate of premium charged per thousand, and the total amount of premium charged upon the full penalty of the bond.

NOTE.—The revenue stamps required under the act of October 22, 1914, should be affixed to each bond.

78. The original bond, after approval by the United States district judge, must be filed and recorded in the office of the clerk of the district court. An exact copy of the bond, showing the nature and location of all seals, stamps, etc., certified by the clerk under the seal of the court, should be at once forwarded by the clerk of the court to the Auditor for the State and Other Departments. The clerk of the court should certify upon this copy that the original bond is filed and recorded in his office.

ADDITIONAL AND NEW BONDS.

79. An *additional* official bond may be given only when directed by the Attorney General and only when the surety or sureties are identical with those upon the existing bond. In such cases it is not necessary to close accounts and deposit balances, as hereafter directed relative to new bonds.

80. If it should become necessary for the Attorney General to direct the execution of a second official bond under one and the same appointment (not an additional bond, as stated in the foregoing paragraph), requisition must be made for funds under the new bond, and after money has been credited thereunder all accounts must be promptly closed and balances under the old bond deposited to the credit of the Treasurer of the United States (nonchecking account). Receipts, disbursements, balances, and accounts under the two bonds must be maintained entirely separate and distinct.

81. The act of March 2, 1895 (see 28 Stat. L., 807), provides that "every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary." It also provides that official bonds shall be renewed every four years, or oftener if necessary. Such renewal, however, may be waived for the period of service of a bonded officer after the expiration of a four-year term of office, pending the appointment and qualification of his successor.

OATH OF OFFICE.

82. The oath of office having been executed in triplicate, one copy should be filed with the bond, one forwarded to the Auditor for the State and Other Departments, and one transmitted to the Department of Justice. Funds with which to defray court expenses can be placed to the credit of the marshal *only* after a copy of the oath of office and a certified copy of his official bond have been received in the office of the Auditor for the State and Other Departments.

83. This oath may be administered by any officer of the United States or of any State authorized by law to administer oaths. United States commissioners, also clerks and deputy clerks of United States courts, are authorized to administer oaths. (See acts May 28, 1896, and Mar. 2, 1901.)

REAPPOINTMENT.

84. A marshal who is reappointed, or who receives an appointment after confirmation by the United States Senate following a recess appointment, must proceed, in so far as his bond, oath, receipts, disbursements, balances, and accounts are concerned, in all respects as a new appointee.

85. A bond must be executed under the new appointment and another oath of office must be taken. The power to disburse moneys under the old appointment and bond terminates on the day preceding

the day upon which the oath of office is taken and duties are assumed under the new appointment.

86. An account must be rendered covering disbursements made up to and including the day preceding the date of qualification and entrance upon duty under the new appointment, books closed, and balances deposited to the credit of the Treasurer of the United States (nonchecking account). New accounts should be opened and the records continued just as if he were a new appointee.

87. It is desirable that all fees earned and expenses incurred up to the date of entrance upon duty under the new appointment should be paid before assuming duty under said new appointment. Regular monthly salaries, however, should not for this reason be paid for fractional portions of a month. Such salaries and other items accruing during the period covered by the old appointment, which have not been paid prior to the date of entrance upon duty under the new appointment, may be paid from funds advanced and included in accounts rendered under the new appointment.

88. In selecting the date for entrance upon duty under a new appointment, it should be noted that it will be necessary to make a brief break in the continuity of payments. If the new commission is received by the judge and becomes effective prior to and near the close of any given quarter, it is desirable to qualify and enter upon duty thereunder upon the first day of the succeeding quarter, in order to avoid the rendition of an account for a portion of a quarter, provided that in cases where a marshal holds office under a recess appointment the commission under which he is acting does not expire before the close of the quarter.

TERM OF OFFICE—VACANCIES.

89. Marshals holding recess appointments will note that they may continue in office under said appointments until the close of the next session of the United States Senate subsequent to said appointments, and no longer.

90. Under the provisions of the act of June 24, 1898 (see 30 Stat. L., 487), marshals who have been commissioned for a term of four years may continue to discharge the duties of their respective offices until their successors have been appointed and have assumed duties.

91. A vacancy arising in the office of marshal by reason of the death of a marshal may be filled under the provisions of the above mentioned act by the district court of the district, if the vacancy arises in a State, or by the Supreme Court of the District of Columbia if arising within the District of Columbia.

POWERS AND DUTIES OF MARSHALS.

92. Marshals are the executive officers of the Federal courts. They are also the local disbursing officers of the courts and the Department of Justice. They have the same powers in each State in executing the laws of the United States as sheriffs and their deputies in such State have, in executing the State laws. (See sec. 788, R. S. U. S., also 135 U. S., p. 1.)

93. The principal duties of marshals, therefore, are to attend terms of the district courts, to execute or cause to be executed judicial process (see sec. 787, R. S. U. S. and sec. 1311, U. S. Compiled Statutes, 1913), and to defray judicial expenses.

94. In addition to and growing out of the foregoing, the following are among the more important duties of marshals:

(a) To attend daily at their offices, unless otherwise engaged on official business, keep fully informed concerning all matters connected therewith, and assist in the service of process or clerical duties. (See par. 1.)

✓(b) To communicate with the Department of Justice concerning actual or anticipated defiance of Federal authority, or other like disturbance. (See pars. 349 to 354.)

✓(c) To arrest persons found in the act of operating illicit distilleries. (See 20 Stat. L., 341.)

(d) To make reports to the Solicitor of the Treasury concerning suits involving property interests of the Government, and collections by execution or otherwise of revenues and debts due to the United States. (See pars. 226 to 237.)

(e) To make returns to the Auditor for the Post Office Department concerning proceedings upon executions involving moneys due on account of the Post Office Department. (See sec. 792, R. S. U. S.)

(f) To supervise leased or rented buildings used for the courts and their officers. (See pars. 611 to 613.)

✓(g) To exercise diligence in the matter of disbursing funds to the end that erroneous charges which are not in accordance with the *actual facts* may be detected before payment.

—(h) To prepare or cause to be prepared and render quarterly accounts, as required by law, and by these instructions.

(i) To collect the earnings of their offices from individuals and corporations and deposit them with clerks of United States courts. (See pars. 310 to 325.)

OFFICIAL RESIDENCE.

95. The law authorizes the Attorney General to fix the official residence of each marshal. It must be at one of the places of holding court, and it is preferable that it be at the principal place. The

place thus designated becomes the official headquarters of the marshal. (See 29 Stat. L., 183.)

96. Expenses of subsistence are allowable only when incurred at places other than the official residence.

RETIRING MARSHAL.

(See also paragraphs 146(c), 159, and 172.)

97. An outgoing marshal must turn over to his successor all Government property in custody, and transmit his receipted inventory thereof to the Attorney General.

98. Specify in the inventory every article of nonconsumable property and make full explanation of failure to include any missing article. Show the make, model, and serial number of typewriting machines, computing machines, check protectors, revolvers, etc.

99. He should also turn over to his successor all moneys other than judiciary funds. Transfer the entire bank balances leaving nothing for outstanding checks. Furnish the bank, however, with a memorandum definitely describing each outstanding check.

100. Unserved process in the hands of an outgoing marshal, or his deputies, shall be delivered to his successor upon request, and the receipt taken therefor transmitted to the Auditor for the State and Other Departments. (See 30 Stat. L., 1237.) Prisoners in the custody of an outgoing marshal should be delivered to his successor in office. (Sec. 790, R. S. U. S.)

101. An outgoing deputy shall, upon request, deliver to the marshal all process remaining in his hands. (See 30 Stat. L., 1237.)

102. A retiring marshal should procure from the clerk of the court and transmit to the auditor a certificate showing:

(a) That he has returned all process, except that turned over to his successor.

(b) That he has accounted for all money collected on executions, or otherwise.

COMPENSATION.

103. United States marshals receive statutory salaries. They will also be allowed, when absent from official headquarters on official business, actual and necessary expenses for lodging and subsistence, not exceeding \$4 per day, and actual necessary traveling expenses. There is a penalty for demanding or receiving, directly or indirectly, any fees or compensation other than as above stated. (See act of May 28, 1896, 29 Stat. L., 183.)

NOTE.—The marshal in his official capacity as a disbursing officer pays to himself personally the salary and expenses above provided. (See pars. 329 to 345, and 398 to 410.)

SALARIED DEPUTY MARSHALS.**AUTHORIZATION AND APPOINTMENT.**

104. Marshals may employ, upon authorization by the Attorney General and at rates of compensation fixed by him, salaried deputies and clerical assistants. (See sec. 10, act of May 28, 1896, 29 Stat. L., 182.) A commission (Form No. 31) should be used by the marshal formally appointing each deputy so authorized. This commission is retained by the deputy, but a copy should remain on file in the marshal's office.

105. Each appointment should be at once reported to the department for approval, and (excepting as stated in the next paragraph) such approval must be received before the appointee takes the oath of office or assumes duties.

106. Incoming marshals are hereby authorized generally to reappoint tentatively, in so far as they may deem such action desirable, their predecessor's deputies. Deputies so reappointed should at once take a new oath of office and continue to execute their official duties, such reappointment, if promptly reported to the department, being hereby approved generally for the period of service elapsing prior to the issuance and the receipt by the marshal, in the ordinary course of business, of a written approval or disapproval.

107. Marshals are responsible for the acts of their deputies and should exercise great care in their selection. If the chief duties of a salaried deputy are other than the service of process, he must either be selected under the rules and regulations of the Civil Service Commission or required to give bond to the marshal. (See act of Oct. 22, 1913, and Department Circular No. 419.)

108. In reporting the reappointment of a predecessor's deputies, as described in paragraph 140, it is only necessary to state the names of the deputies thus reappointed, no change in their status or salary being permissible without previous authorization; otherwise each application for authority to employ, and also each report of the formal appointment of a salaried deputy, should state:

- (a) Name and date of birth of proposed or actual employee.
- (b) His residence and occupation at the time of selection.
- (c) Proposed headquarters.
- (d) Proposed rate of compensation.
- (e) Duties of position and qualifications therefor.
- (f) Whether he has been or is to be designated "Chief deputy," and the date on which such duties have been or will be assumed.
- (g) Whether the chief duties of the position are the service of process or office work.
- (h) Whether bonded or to be bonded; and if so, in what amount.

NOTE.—Applications for authority to employ as distinguished from reports of formal appointments must state in addition to the foregoing "the facts as distinguished from the conclusions establishing the necessity for the proposed appointment."

OATH OF OFFICE.

109. Each salaried deputy must execute in triplicate an oath of office (Form No. 10). The marshal will certify thereon when the deputy assumed duty. The three copies of the oath must be disposed of as follows:

One filed with the clerk of the district court.

One transmitted to the Attorney General.

One transmitted to the Auditor for the State and Other Departments.

110. Mere change in the rate of compensation of a deputy as distinguished from reappointment does not require the execution of a new oath of office. (See 3 Comp., 336.)

TERMINATION OF SERVICES AND OTHER CHANGES.

111. Resignations, suspensions, dismissals, changes in location, absence without pay, or other conditions affecting compensation must be promptly reported to the department. The date of each change must be definitely given. It must be shown at the close of what day it became effective. In case of suspension or dismissal the cause must be stated. A deputy dismissed for misconduct must not again be employed by the marshal in any capacity without specific authority from the Attorney General.

112. The term of office of a salaried deputy expires (unless his services are terminated earlier by competent authority) with that of his principal, excepting for the purposes named in sections 789 and 790, R. S. U. S. (See 3 Comp., 648.)

113. An outgoing deputy must upon request deliver to the marshal who appointed him, or to the incoming marshal, as the case may be, all process remaining in his hands. (See 30 Stat. L., 1237.)

114. If the incoming marshal desires to retain the services of any of his predecessor's deputies, they must be reappointed and take a new oath of office. (See par. 106.)

115. If a deputy who has been instructed by the Attorney General to take charge of the office of the marshal pending the appointment of his successor notifies the salaried deputies to remain in charge at their respective stations, and they in fact do, their employment may be considered as continuous, and they may be paid accordingly, provided they are subsequently reappointed by the incoming marshal. (See Comp. to disbursing clerk, Department of Justice, May 23, 1910.)

DUTIES.

116. It is the duty of salaried deputies under assignments made by, and under direction of, the marshal to execute the clerical and other inside work of the office, to serve process, transport prisoners, attend court, act as bailiffs or criers when required, etc.

117. The chief deputy is to be considered in charge of the office in the absence of the marshal. He should understand and be able to direct the work of the office, supervise the activities of the other deputies, and otherwise satisfactorily represent his superior.

118. If the appointment of a salaried deputy is authorized and approved upon condition that he shall act as bailiff without additional compensation, he must so serve, and payment may not properly be made to another person covering services as bailiff which should have been rendered by the deputy. (See 4 Comp., 226.)

119. Deputies will not be allowed additional compensation for acting as bailiffs or criers.

COMPENSATION.

120. Salaried deputies and clerical assistants are paid monthly by marshals. Their annual salaries are fixed by the Attorney General (See act of May 28, 1896, 29 Stat. L., 182, and pars. 329 to 345.)

121. Salaried deputies also receive actual traveling expenses and actual expenses of lodging and subsistence, not exceeding \$3 per day (see 35 Stat. L., 640) when absent from their stations on official business; they are also reimbursed for expenses of transporting prisoners, including necessary guard hire. (See pars. 398 to 410.)

122. There is a penalty for demanding or receiving any fees or compensation other than those above mentioned.

FEE DEPUTY MARSHALS.

APPOINTMENT.

123. When, in the opinion of the marshal, public business requires it, he may appoint one or more fee deputies to hold office (unless sooner removed by the district court or the Attorney General) during the pleasure of the marshal. (See 36 Stat. L., 1355.)

124. Appointments of fee deputies should be immediately reported to the Attorney General. Such reports should specify:

(a) The facts as distinguished from the conclusions constituting the reason for the appointment.

(b) Name and age of employee.

(c) His residence and occupation at the time of appointment.

(d) His official headquarters.

125. Judgment and discretion should be exercised in the selection, appointment, and location of fee deputies. Their headquarters should usually be near the center of the territory to be covered in the service of process. *Inexpedient appointments will be canceled.*

126. Before appointing sheriffs, deputy sheriffs, town constables, etc., as deputies, marshals should ascertain that the duties of the two positions are not likely to conflict. In case of doubt on this point, specific instructions should be obtained from the department.

127. Resignations, suspensions, dismissals, or changes in location must be immediately reported to the department. The dates of such changes must be distinctly given, and in the case of suspension or dismissal the cause must be stated. A deputy dismissed for misconduct must not be again employed by the marshal in any capacity without specific authority from the Attorney General.

OATH OF OFFICE.

128. Form No. 10 should be used for the oath of a fee deputy. It should be executed in duplicate; the original filed with the clerk of the district court and the duplicate transmitted to the Attorney General. The marshal should certify, as provided by the form, when the appointee assumed duties.

TERM OF OFFICE.

129. The term of office of a fee deputy ends with that of his principal, excepting for the purposes named in sections 789-790, R. S. U. S.

130. Incoming or reappointed marshals desiring to retain the services of fee deputies should reappoint them and require them to execute new oaths of office.

131. Unserved process must be immediately delivered to the incoming marshal upon request and an outgoing deputy must, upon request, deliver to his principal all unserved process. (See 30 Stat. L., 1237. See also pars. 423 and 424 under Maximum Compensation, etc.)

COMPENSATION.

132. Fee deputy marshals are entitled to compensation as follows:

(a) All gross fees actually earned, including mileage, not to exceed \$1,500 per annum.

(b) Actual and necessary expenses, not exceeding \$2 per day, while endeavoring to arrest, under process, a person charged with or convicted of crime.

NOTE.—A fee deputy may elect to receive actual expenses on any trip in lieu of the mileage above stated. (See 29 Stat. L., 182, and 36 Stat. L., 1355.)

(See pars. 417 to 471.)

CHAPTER II.

JUDICIARY AND OTHER FUNDS.

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JUDICIARY FUNDS ADVANCED ON REQUISITIONS.

133. Advances are made, i. e., moneys are placed to the credit of marshals with the Treasurer of the United States under various appropriations (transactions under each of which must be separately handled and recorded) for defraying court expenses, payment of judicial salaries, etc. Such moneys are known as "judiciary" funds as distinguished from deposits to secure costs and other special funds. Requisitions for the money which it is anticipated will be needed should be made quarterly upon the blank forms provided.

134. Requisitions for money should be forwarded in time to reach the department about 20 days prior to the close of each quarter of the fiscal year. This is a matter of the utmost importance, and other business should not be allowed to interfere with it.

135. Additional requisitions may be made if necessary. It is the duty of marshals to communicate with the department whenever it becomes apparent that more money is needed.

136. If it is impracticable to advance at once the entire amount requested, a partial advance will be made and more money credited later, as circumstances may warrant.

137. Whenever it is estimated that the prospective expenses under any appropriation for a given quarter will greatly exceed those for the corresponding quarter of the previous fiscal year, the

regular quarterly requisition *must be accompanied by a statement* explaining the conditions giving rise to the anticipated increase.

138. In making requisition to cover anticipated expenses of the closing quarter of a fiscal year, i. e., the June quarter, the utmost care should be exercised in order to avoid requesting an amount in excess of that which will be actually needed. Prior to making such requisition the marshal should confer fully and freely with the district attorney and, if practicable, with the district judge, in order to ascertain the nature and extent of the prospective court business. The probable unexpended balance of the money already advanced for previous quarters at the close of business on March 31 should also be taken into consideration and the difference only requested between such amount and the estimated expense of the June quarter.

139. Money under appropriations for a given fiscal year is advanceable only until September 30 of the following fiscal year, excepting at stations not forming part of the mainland of the United States, such as Alaska and Hawaii, where advances may be made until the close of the second fiscal year following the year for which the appropriation is made.

140. Claims against the Government on account of fees earned or expenses incurred remaining unpaid after the close of the period during which advances can be made should be handled as directed in paragraphs 593 to 600.

DEPOSITS.

GENERAL INSTRUCTIONS.

141. The deposit of moneys received to secure the payment of costs should be made with a local depository the use of which has been approved by the Attorney General. (See paragraph 201.)

142. Instructions relative to deposit of income-tax moneys will be found in paragraphs 188 to 200.

143. The deposit of *judiciary funds* and the deposit of *proceeds of sales* of old materials or other Government property should be made directly with the Treasurer of the United States, Washington, D. C. (The checks or drafts representing such deposits should be mailed directly to the Treasurer of the United States, Washington, D. C.)

144. If a deposit to the credit of the Treasurer of the United States is not, after having been so deposited, to form part of the balance standing to the official credit of the marshal and subject to his official check, it must be definitely described as a "*deposit into nonchecking account.*"

145. If a deposit is to have the effect of adding to the unexpended balance of the marshal and form part of the total amount subject to his official check with the Treasurer, it should be designated as a "*deposit into checking account.*"

WHEN DEPOSITS SHOULD BE MADE INTO NONCHECKING ACCOUNT.

146. Deposits should be made into nonchecking account as follows:

(a) If it is found near the close, or immediately after the close, of a fiscal year that the unexpended balance under any appropriation or appropriations is manifestly greater than the amount which will be required to complete payments, the excess should be at once deposited.

(b) All such unexpended balances should be so deposited, when it has been ascertained that they will be no longer needed to liquidate outstanding liabilities, and not later in any event than September 30 of the succeeding fiscal year, excepting in districts detached from the mainland of the United States, such as Alaska and Hawaii. The final deposit of such unexpended balances will of course include all disallowances and collections which have been made part thereof by being deposited into checking account.

(c) Whenever it is necessary to dispose of unexpended balances on account of retirement from office, or when a new official bond has been given (other than an additional bond) and it is desired to dispose of balances under the old bond.

(d) To dispose of the proceeds of sales of old materials or other Government property.

WHEN DEPOSITS SHOULD BE MADE INTO CHECKING ACCOUNT.

147. Deposits should be made into checking account as follows:

(a) When conceded suspensions or disallowances (from which appeals are not to be taken) pertaining to appropriations in current use are to be placed to the credit of the disbursing officer with the Treasurer.

(b) When collections covering erroneous but unsuspended disbursements, overpayments, or refunds of moneys advanced to witnesses or others are to be deposited.

METHOD OF MAKING DEPOSITS TO THE CREDIT OF THE TREASURER OF THE UNITED STATES.

148. If it is desired to transfer funds from *checking* to *nonchecking* account, as is ordinarily the case when unexpended balances are repaid, the check to effect the transfer should be drawn in the following form:

....., 19...
Pay to the order of the Treasurer of the United States three hundred 00/100 dollars.

JOHN DOE,
U. S. Marshal.

\$300.00.

Object for which drawn:

Unexpended balances of appropriations for credit of Treasurer U. S.

Checking account to nonchecking account.

Details reported by letter to auditor.

149. It is not necessary to state on the check the title and amount of each appropriation. This information should be given in a letter to the auditor, a copy of which should be transmitted to the Department of Justice.

150. A single check should be drawn covering the entire amount of the deposit, including all appropriations. No attempt should be made to list the appropriations on the check. This will be done in the letter reporting the deposit to the auditor. The office of the Treasurer of the United States needs only information showing whether a check represents "appropriations" or "revenues."

151. A private check may be used for deposits of suspensions, disallowances, and collections intended to go into *checking account*. The following form of check or indorsement is suggested:

....., 19...

First National Bank of

Pay to the order of the Treasurer of the United States twenty-five 00/100 dollars.

JOHN DOE,
U. S. Marshal.

\$25.00.

Object for which drawn:

Deposit into checking account.

Disallowances; appropriations for 19...

Details reported by letter to auditor.

REPORTING AND RECORDING DEPOSITS.

152. When a deposit is made into checking account covering disallowances, a notation of this action should be made opposite the item or items thus disposed of on the statement of differences on file in the marshal's office. Inadvertent duplication of deposits will be thus avoided.

153. It should be understood that ordinary deposits which involve "appropriations" are classified as follows:

(a) "Unexpended balances"; i. e., balances of appropriations advanced to the disbursing officer against which he has not drawn checks.

(b) "Disallowances," which term is used to cover also suspensions that are uncontested or conceded.

(c) "Collections," which term includes items erroneously paid but not suspended or disallowed by the auditor, and refunds of advances or overpayments.

154. The letter to be written to the auditor, a copy of which is to be sent to this department, reporting the details of a deposit, should be substantially in the following form:

DISTRICT OF.....,

OFFICE OF U. S. MARSHAL,

March 4, 1914.

*Auditor for the State and other Departments,**Treasury Department, Washington, D. C.*

SIR: I have this day deposited into *nonchecking account* (credit Treasurer U. S.) the following-described sums:

Fees of Jurors, U. S. Courts, 1914, unexpended balance	\$100. 00
Fees of Witnesses, U. S. Courts, 1914, unexpended balance.....	200. 00
(Unexpended balances deposited by direction of the Attorney General.)	
Support of Prisoners, U. S. Courts, 1913, disallowance.....	10. 00
Pay of Bailiffs, etc., U. S. Courts, 1912, collection (per diems of Bailiff Richard Roe, March 1 and 2, 1912, erroneously charged because not actually in attendance; see examiner's report).....	6. 00

NOTE.—Disallowances and collections deposited in*this manner when for prior years. If for the current fiscal year and under current bond deposit as shown below.

I have also made the following-described deposit into *checking account*, the same to be held by the U. S. Treasury subject to my check:

Miscellaneous Expenses, U. S. Courts, 1914, disallowance.....	\$5. 00
---	---------

I have also made the following-described deposit into *nonchecking account* (credit Treasurer United States):

Miscellaneous revenues, the sum of \$25.00, being the proceeds of the sale of an old typewriter.

These deposits were made under my bond dated.....

Respectfully,

JOHN DOE, *U. S. Marshal.*

NOTE.—Deposits of amounts disallowed should be sufficiently described for identification.

155. The duplicate certificate of deposit which is furnished by the office of the Treasurer of the United States should be filed in the marshal's office in such manner as to be readily accessible when needed for reference.

DISBURSEMENTS.

GENERAL INSTRUCTIONS, CHECKS, ETC.

156. Blank checks for use in disbursing moneys held as deposits covering costs, technically known as "other funds," will, of course, be furnished by the local depositary in which said funds are kept.

157. Blank checks for use in disbursing judiciary funds and special deposit funds, kept with the Treasurer of the United States, will be supplied by the Treasury Department. Applications for such checks prepared upon the forms provided by the Treasury should be addressed to the Division of Printing and Stationery, Treasury Department. Only checks so procured may be used for checking on the Treasurer of the United States.

158. Checks on judiciary funds must have the marshal's numerical checking symbol printed, stamped, or written in the lower right-hand corner. This checking symbol must be ascertained before a check is drawn on the Treasurer of the United States.

159. When a marshal retires from office, his unused checks should be turned over to his successor, who will use them, lining out at once throughout the entire unused portion of the book the retiring marshal's checking symbol printed thereon, and substituting his own. Such transfers of checks should be reported at once to the Division of Printing and Stationery, Treasury Department.

160. If any erasure or alteration is made in an official check, the marshal must certify across the face of the check to the correctness of such erasure or alteration.

161. Spoiled or canceled checks should be sent quarterly to the Auditor for the State and other Departments for preservation and reference.

162. In the preparation of official checks care should be exercised to have the writing executed, whether with pen or typewriter, with a permanent, heavy black ink, which can not be easily erased without removing the protective surface tinting of the check.

163. There must be a brief statement on the face or back of each check, clearly indicating the object or purpose for which it was drawn, as, for example, "Fees of Jurors, 1915."

164. Unless the marshal has specific authority to hold money at his own risk and pay otherwise, all disbursements of judiciary funds must be by checks upon the Treasurer of the United States, drawn in favor of the payees named in the marshal's accounts, and mailed, or handed directly, to said payees.

165. The mere drawing of an official check without its unrestricted delivery to the payee does not constitute a payment in lawful money for which a marshal may claim credit in his accounts.

166. Marshals may not issue any certificate, scrip, or other form of evidence of indebtedness whereby to charge the United States, nor recognize nor pay the same, but may make payments only upon presentation of the proper pay rolls or other duly authenticated vouchers.

167. Section 104 of the Criminal Code (see 35 Stat. L., 1107) provides:

"Whoever, being a judge, clerk, or deputy clerk of any court of the United States or of any Territory thereof, or a United States district attorney, assistant attorney, marshal, deputy marshal, commissioner, or other person holding any office or employment or position of trust or profit under the Government of the United States, shall, either directly or indirectly, purchase at less than the full face value thereof any claim against the United States for the fee, mileage, or expenses of any witness, juror, deputy marshal, or any other officer of the court whatsoever, shall be fined not more than one thousand dollars."

168. If circumstances render it impracticable for the marshal, in person, to sign all official checks, application may be made for author-

ity to have the chief deputy sign for the marshal in the following form:

JOHN DOE,
U. S. Marshal,
By RICHARD ROE,
Deputy Marshal.

169. Such applications should state fully the necessity for the proposed action and submit the chief deputy's signature.

170. No allowance will be made for expenses charged for collecting money on checks.

171. Whenever it appears that an official check issued by the marshal has been lost, stolen, or destroyed, he will, upon application to the department, be furnished with blank forms of bonds of indemnity, to be executed by the party or parties in interest, said forms containing full detailed instructions concerning the issuance of duplicate checks, or (in case the marshal who drew the check is out of the service) the statement of an account in favor of the owner.

172. When a marshal retires from office and thus ceases to be a disbursing officer, his authority to disburse judiciary funds ceases to exist, and unexpended balances should be promptly deposited to the credit of the Treasurer of the United States (nonchecking account).

173. If a marshal is recommissioned, and is thus his own successor in office, disbursements from funds received under his old appointment and bond should terminate on the day next preceding the day on which he assumes duties under his new appointment. (See pars. 84 to 88.)

OUTSTANDING AND RETURNED CHECKS.

174. Promptly after the receipt from the Treasurer of the United States of the monthly statement of his account for the month of June of each year, the marshal should make a return to the Secretary of the Treasury of all checks drawn by him which were outstanding and unpaid for three full fiscal years on the 30th of June of that year, stating therein the number of each check, its date, and amount, in whose favor and for what purpose it was drawn, the number of the voucher to cover which it was issued, and, if known, the residence of the payee.

175. If any of the outstanding checks thus listed have been returned, they should accompany said return.

176. It should be noted by way of illustration that checks dated, for instance, any time between July 1, 1914, and June 30, 1915, if not previously paid, have been outstanding for three full fiscal years at the close of business on June 30, 1918.

177. Checks reported as above to the Secretary of the Treasury are carried to the credit of the respective payees in a fund denominated "outstanding liabilities." The payees or bona fide holders of

such checks may obtain the money due thereunder by submitting their claims to the Secretary of the Treasury for direct settlement.

178. In case of the termination of the services of any disbursing officer checks previously drawn by him will be paid from the funds to his credit, unless such checks have been drawn more than four months before their presentation or reasons exist for suspecting fraud. Any check previously drawn by him and not presented for payment within four months after its date will not be paid until its correctness shall have been attested by the Comptroller of the Treasury or his chief clerk.

DISBURSEMENTS IN CASH.

179. In special cases only and where, for good and sufficient reasons (such as the illness of the marshal and his consequent inability to sign checks), it is impracticable to make all payments by checks, application may be made to the Department of Justice for the issuance of authority by the Secretary of the Treasury for the marshal to keep on hand at his own risk a certain amount of public money from which *official payments only* may be made in cash.

180. Particular attention is invited to the fact that all payments should be made either by official check or (if the marshal has received the requisite authority) in cash. In other words, money held by marshals at their own risk for the purpose of making payments in cash should not be disbursed by private or quasi official checks.

181. If disbursements from judiciary funds are made in cash, receipts must be taken therefor upon the current forms specifically provided for this purpose and fastened to the proper vouchers. In such cases a subsidiary cash account must accompany the regular quarterly account. Printed forms for this subsidiary cash account are not deemed necessary. It should be prepared substantially as indicated by the following form and attached to the account current:

1915.			1915.		
July 1	Cash on hand.....	\$300.00	Sept. 30	Vouchered expenditures paid	\$373.18
Aug. 25	Ck. No. 4201, cash.....	200.00	Sept. 30	in cash.....	126.82
			Sept. 30	Cash on hand.....	126.82
		500.00			500.00

182. If a marshal's account shows a balance on hand in cash or a balance carried as cash on account of partial or memorandum payments, it shall be the duty of the district attorney, in person or by his assistant or clerk, upon the request of the marshal, to be present at the close of business on the last day of the quarter or other period for which such account is rendered, during the counting and scheduling of the items of cash or memorandum payments which will appear in the analysis of balance, as a disinterested witness, who will verify the counts and schedules and make a certificate accordingly upon the account current.

ADVANCES BY MARSHALS.

183. Advances to deputies or other officials or employees of money to defray prospective expenses of travel and subsistence arising in connection with the transaction of official business are altogether optional with and at the risk of marshals. Instructions pertaining to advances to witnesses subpoenaed to attend in other districts will be found in paragraphs 526 to 535.

WEEKLY REPORTS OF RECEIPTS AND DISBURSEMENTS.

184. Reports of receipts and disbursements prepared upon forms furnished for this purpose are made by marshals to the Attorney General, promptly after the close of business on Saturday of each week, and also after the close of business on the last day of each quarter of the fiscal year.

185. If no disbursements have been made during a given week, the report should nevertheless be forwarded, indicating this fact.

186. If there should be an overdraft under a given appropriation at the close of a week, the amount of such overdraft should be indicated in red ink wherever the actual balance, if any, would be shown, and should be carried forward in red ink to the succeeding report. If, for instance, there is a balance on hand from the preceding week under "Fees of Witnesses, U. S. Courts," of \$500, and an emergency demanding the immediate payment of witnesses necessitated the expenditure of \$750 during the week, the overdraft should be indicated substantially as shown by the following fictitious sample report:

Appropriations.	Fiscal year.	Balances from preceding report.	Received.		Total.	Ex-pended.	Balances on hand.
			Ad- vanced by United States.	From other sources.			
Salaries, Fees, and Expenses.....	Current fiscal year.	\$633.10	\$500.00	\$2.36	\$1,135.46	\$217.05	\$918.41
Fees of Jurors.....		1,000.00	500.00		1,500.00	427.00	1,073.00
Fees of Witnesses.....		500.00			500.00	750.00	O.d. 250.00
Support of Prisoners.....		750.00			750.00		750.00
Pay of Bailiffs, etc.....		100.00	200.00		300.00	50.00	250.00
Miscellaneous Expenses.....		300.00	200.00		500.00	125.00	375.00
Salaries and Expenses, District Attorneys.....		200.00			200.00	43.25	156.75
Pay of Regular Assistant Attorneys.....		1,000.00			1,000.00		1,000.00
Salaries, District Judges.....		1,500.00			1,500.00		1,500.00
Salaries, Fees, and Expenses.....		113.26			113.26	22.18	91.08
Fees of Jurors.....	1914						
Fees of Witnesses.....							
Support of Prisoners.....	1914	43.72			43.72		43.72
Pay of Bailiffs, etc.....							
Miscellaneous Expenses.....	1914	89.10			89.10	40.00	49.10
Salaries and Expenses, District Attorneys.....	1914	16.00			16.00		16.00
Total.....		6,245.18	1,400.00	2.36	7,647.54	1,674.48	5,973.06

187. Entirely separate reports of receipts and disbursements must, of course, be prepared, covering transactions occurring under dif-

ferent bonds, excepting those cases wherein an *additional bond*, as distinguished from a new bond, has been executed.

INCOME TAX DEDUCTIONS.

188. Under the provisions of the act of October 3, 1913 (see 38 Stat. L., 166-181), commonly known as the income-tax law, marshals, being disbursing officers, are withholding agents and must make, in certain specified cases, deductions from payments made by them on account of judicial salaries and otherwise.

189. A deduction of 1 per cent must be made from the excess over \$3,000 or \$4,000, as the case may be, paid by a given disbursing officer¹ during any given calendar year to a given payee. In order to ascertain whether said deductions should begin after payments during the year have aggregated \$3,000 or \$4,000, exemption certificates must be obtained each year from officials and employees or lessors, payable by marshals, in all cases where the probable payments will reach \$3,000 per annum or over. These certificates are retained until after the close of each calendar year and filed with the annual return of amounts withheld made to the local collector of internal revenue. In the case of United States judges exemption certificates should be obtained and deductions made only when the appointment of the judge occurred subsequent to October 3, 1913.

190. If, for instance, an official who is a single man has been paid by a given marshal \$2,900 since January 1 of any year and the marshal is about to make payment to him of \$600, covering his monthly salary (\$500 of which will be in excess of \$3,000) two checks should be drawn in making the settlement, one in favor of the payee for \$595 and the other in favor of the Treasurer of the United States (excepting in the district of Hawaii, where it will be in favor of the local depository) for \$5. The first check should be, of course, delivered to the payee. The check for \$5 should be transmitted to the Treasurer of the United States for deposit to the credit of the marshal in his special-deposit account.

191. There should be noted upon the face of each voucher involved any deduction which has been made on account of income taxes. Such vouchers will show that payment has been made by two checks instead of one. Credit will be claimed in the marshal's quarterly accounts for the full amount paid, both the amount remitted to the payee and the amount withheld, and both items should be charged upon the funds book. The payee should be advised concerning each deduction when the checks are transmitted to him.

192. Special-deposit accounts are to be maintained in the cash-book, a sufficient number of pages to be allotted therefor. Into such

¹ Payments by marshal's predecessor in office are not to be taken into consideration. Payments due at death of an officer are not subject to deduction. (See 21 Comp., 552.)

accounts postings should be made from the funds book covering the amounts withheld. Such accounts in the cashbook should show the date of each withholding check, from whom the money was withheld, and the number and date of the certificate of deposit furnished by the Treasurer of the United States after he receives the withholding check. This special-deposit account will be closed annually after remittance has been made to the local collector of internal revenue.

193. Personal ledger accounts should be maintained showing all payments made to each official, employee, or other person who receives an annual compensation sufficiently large to bring him within the probable field of income-tax deductions. This will be in some cases \$3,000 and in others \$4,000 per annum. These are single-column memorandum accounts. There should be entered under the name of each such official not only the amounts paid to him on account of compensation, but also the amounts withheld on account of income-tax deductions. By means of these accounts it will be possible to ascertain when to begin making deductions in each case, and there will also be a record of all deductions actually made.

194. Great care should be exercised to avoid confusion between the regular disbursing account of judiciary funds and the special-deposit account of income-tax deductions. A separate checking symbol and check book is used in every instance where a check is drawn against funds standing to the credit of the marshal in his special-deposit account.

195. After the close of each calendar year marshals should ascertain whether any of the officials from whose annual compensation a deduction or deductions have been made desire to file any claim for a refund of any portion of the amounts deducted. If so, they should be furnished with a copy of Treasury Form No. 1008, revised, to be used for this purpose. Such applications for refund may be filed only during the period from January 1 to January 29 of the following year.

196. If a claim or claims for refund are received and found to be apparently correct, repayment to the official or officials should be made accordingly by drawing a check against moneys standing to the official credit of the marshal in the special-deposit account, using the special check and special checking symbol provided for this purpose. Such disbursements, if any, should be properly charged in the space allotted in the cash book for the record of income-tax moneys.

197. After the settlement of all applications, if any, for refund, an annual return of amounts withheld should be prepared upon Treasury Form No. 1042. This return must be transmitted not later than March 1 to the local collector of internal revenue.

198. After making the above-mentioned return, the marshal should await the levying of an assessment on him under said return, and the receipt of a notice of such assessment from the local collector of

internal revenue. After the receipt of such notice, and prior to June 30, the marshal should draw a check upon his special-deposit account covering the amount of said assessment, using his special check book and special checking symbol provided for this purpose. His check should be drawn to the order of and transmitted to the local collector in liquidation of the assessment. It should close and balance his special-deposit account for the calendar year involved.

199. The original or a certified copy of the notice of assessment from the collector must accompany the special-deposit account for quarter during which remittance is made to said collector. (See Cir. No. 33, Comp. Treasury, dated Aug. 11, 1914.)

200. A quarterly report of amounts withheld under the income-tax law should be transmitted to the department with each quarterly account. This report will be made on Forms 773, 774, and 775. If no amounts have been withheld and no income-tax moneys are in hand, Form 774 should nevertheless be transmitted, indicating this fact.

MONEYS OTHER THAN JUDICIARY APPROPRIATION AND INCOME-TAX FUNDS.

201. Funds other than judiciary and income-tax moneys (recorded in the Cash Book) should be deposited as far as practicable to the marshal's official credit with the Treasurer of the United States, an Assistant Treasurer, or a regular Government depository, and disbursed by checks. Such moneys should be kept entirely separate and distinct from private funds, judiciary appropriation funds, and income-tax funds. They should not be used even temporarily for advances to deputies, witnesses or others.

202. A quarterly report of such moneys in the general form of clerk's reports to the attorney general of moneys other than registry funds (see paragraph 950) should be prepared and transmitted to the Department of Justice promptly after the close of each quarter, under separate cover, and not with the regular quarterly accounts. If there are no funds to report a statement should nevertheless be transmitted, indicating this fact.

203. Such report should show conditions at the close of business on the last day of each quarter as follows:

(a) The number and title of each case, and the balance on hand therein.

(b) The total amount of all such items.

(c) The name and location of the depository, the exact title of the account, and the amount on deposit.

(d) The cash on hand, if any.

(e) The number, date, and amount of each outstanding check.

204. The sum of items *c* and *d*, less the amount of item *e*, should equal item *b*, as above described, otherwise the discrepancy must be explained.

CHAPTER III.

SERVICE OF PROCESS.

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GENERAL INSTRUCTIONS.

205. When deputies are absent from their official headquarters in the service of process, they should keep the marshal constantly advised of their whereabouts, reporting at the close of each day where they are located and where they expect to be on succeeding days.

206. Unserved process remaining in the hands of a marshal or his deputy must be delivered to the succeeding marshal upon request; likewise an outgoing deputy must deliver to his principal, upon request, all process remaining in his hands. (See 30 Stat. L., 1237.)

207. A warrant of arrest does not run beyond the district in which it issues. Fees and expenses for serving such writs in another district are not allowable. (See 1 Comp., 127, and 10 Comp., 438.)

208. While a warrant of arrest does not run beyond the district where issued, it may be used in another district as a foundation for securing the removal and arrest of the defendant. (See sec. 1014, R. S. U. S., and 10 Comp., 438.)

209. Warrants of arrest must contain a sufficient description of the person to be apprehended to enable identification. Otherwise deputies are not entitled to fees or expenses for serving them. Simple John Doe warrants are not valid or legal writs. (See 16 Comp., 891.)

210. All copies of writs should be made in the marshal's office by the office force.

DOCKETING, DELIVERING, AND REPORTING SERVICE OF WRITS.

211. Ordinarily writs issued by clerks of courts and commissioners should be sent directly to the marshal's office for docketing and distribution among the deputies for service. Instructions as to docketing will be found in paragraph 252*a*.

212. If circumstances will not admit of the delay incident to sending writs to the marshal's office, they may be handed or mailed directly to the deputy located nearest the probable place of service, but in all such cases the deputy must immediately notify the marshal on Form 645, giving all the information indicated by the form.

213. After docketing, writs should be sent to the deputy nearest the probable place of service, unless the deputies have been assigned to certain territory, in which event they should be distributed according to such assignments. The question of unnecessary travel is involved in every case where a writ is served by a deputy who is not nearest the place of service, and explanation will be required incident to the allowance of mileage or expenses.

214. A report of the service of each writ prepared on Form 32 should be promptly transmitted to the marshal's office.

PROCEDURE IN SERVING.

215. Subpœnas should be served, as far as practicable, on trips taken for the purpose of executing warrants. It is the duty of deputies to exercise all reasonable diligence in locating witnesses. The service of subpœnas may not be intrusted to private individuals.

216. When subpœnas are served on salaried Government officials or employees, they should be notified that they will receive actual expenses only and advised that they should obtain receipts for lodging, subsistence, hire of vehicles, stage fare, and other like items.

217. With the exceptions noted below, defendants must be taken before the commissioner or other judicial officer having jurisdiction nearest the place of arrest. If such official is absent or does not hear the case, the prisoner should be taken before the next nearest official having jurisdiction. (See pars. 427 to 433; see also 28 Stat. L., 416.)

218. The following are modifications of the rule requiring defendants to be taken before the nearest commissioner:

(a) If a defendant is arrested on a commissioner's warrant, based on an indictment found in another district, he need not be taken before a commissioner unless to give bond, but may be taken direct to the judge for a warrant of removal to be issued.

(b) Commissioners may be specially designated in Chinese-exclusion cases. (See pars. 432 and 433.)

(c) Persons arrested on writs of *capias* should be taken directly to court, if in session, unless the defendant desires to and can give bond for his appearance, in which case he should be taken before the nearest commissioner for that purpose. (See Comp. to Marshal Allen, Oct. 17, 1900.)

SUMMONING JURORS.

219. Provisions governing the method of drawing jurors, their qualifications, exemptions, etc., will be found in chapter 12 of the Judicial Code. (See 36 Stat. L., 1164 to 1166.)

220. Writs of *venire facias* are ordinarily served and returned by the marshal or his deputies. If the marshal or his deputy is interested in the event of the cause, special appointment may be made by the court for the service of the writ. (See sec. 279, Judicial Code.)

221. Persons residing elsewhere than at the place where court is held should be served by registered mail. (See sec. 279, Judicial Code.) The receipts for the registered letters obtained by the Post Office Department from the persons so summoned may be returned to the clerk of the court with the return of service of the *venire*.

222. The marshal should see that there is printed or stamped upon the reverse side of each summons for a juror (Form 58), mailed or otherwise served, the following notice:

SPECIAL NOTICE.—If you have moved out of the judicial district, wish to claim exemption from jury service, or desire to be excused from such duty, you should state the facts briefly and clearly, supporting your statement by affidavit and mailing it *at once* to the United States district judge. Unless so ordered by the court, mileage or *per diems* will not be paid to any person who, desiring to be excused or having removed from the district, fails to observe the above instructions.

223. When, from challenges or otherwise, there is not a petit jury to determine any civil or criminal cause, the marshal or his deputy shall, by order of the court in which such defect of jurors happens, return jurymen from the bystanders sufficient to complete the panel. If the marshal or his deputy is disqualified, jurors may be so returned by such disinterested person as the court may appoint, and such person shall be sworn as provided by law. (See 36 Stat. L., 1165.)

224. When special juries are ordered in any district court, they shall be returned by the marshals in the same manner and form as is required in such cases by the laws of the several States. (See 36 Stat. L., 1165.)

225. Every grand jury impaneled before any district court shall consist of not less than 16 nor more than 23 persons. If of the persons summoned less than 16 attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district and not from the bystanders, a sufficient number of persons to complete the grand jury. And whenever a challenge to a grand juror is allowed, and there are not in attendance other jurors sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose. (See 36 Stat. L., 1165.)

REPORTS INVOLVING PROPERTY INTERESTS OF THE GOVERNMENT AND COLLECTIONS BY EXECUTION OR OTHERWISE OF REVENUES AND DEBTS DUE THE UNITED STATES.

227. On receipt of an execution, distress warrant, or other writ requiring the collection of money, or the sale or seizure of property, in all civil United States cases (except internal revenue), the marshal shall immediately report to the Solicitor of the Treasury, on Form 3, the date of the receipt of the same and other information therein required, and shall perform his duty zealously in searching for property, in making levy, sale, and return, or in any other usual and proper efforts for the collection of the money.

228. Immediately after the return of any of such writs, or order of sale, the marshal shall make further report to the Solicitor of the Treasury, on Form 4 of all that has been done under the writ; and shall also make a similar report to the district attorney.

229. Where a marshal, in a United States case (except internal revenue), makes a seizure or a levy, he will report to the Solicitor of the Treasury a full description of the property seized or levied upon, in whose possession found, where, how, by whom; upon what terms kept, and how long it will be necessary to keep it.

230. In cases where the return is, in substance, "no property to be found," the marshal will also specially report to the Solicitor of the Treasury and district attorney the situation, residence, and circumstances of the party against whom the writ was issued; whether the debtor has any means within or out of the district which can be reached by the United States; or whether the debt is valueless.

231. If at a marshal's sale in a United States case (except internal revenue), no one bids to the amount of the execution, or one-half of the cash value of the property offered, he will postpone the sale, and give notice to the United States attorney and the Solicitor of the Treasury, except in cases where by such postponement the lien would be lost, or the interest of the Government otherwise seriously jeopardized. In the latter case, if he shall deem it necessary, to save the debt, he will consider the United States as bidding such amount, not greater than one-half the cash value of the property, as he shall deem proper for its interest. Should the United States become the purchaser of the property, the marshal will take care of the same and promptly report all action.

232. When real estate shall be purchased at a marshal's sale by or for the United States (except in internal-revenue cases), the marshal will immediately transmit to the Solicitor of the Treasury his certificate of sale, according to the law and usages in his district; and when the purchaser shall be entitled thereto, such marshal shall execute his deed for the property to the United States, cause the same to be placed on

record, and immediately thereafter transmit such deed to the Solicitor of the Treasury.

233. If the real estate sold is not redeemed, he will immediately report the fact to the Solicitor of the Treasury.

234. On receiving money in the United States cases (except internal revenue) marshals will promptly pay same over to the clerk of the court, report the matter to the district attorney and the Solicitor of the Treasury, stating when, from whom, and on what account it was received.

235. Marshals will give notice in writing to the district attorney of all acts of trespass and all breaches of the customs revenue or other laws (except internal revenue) whereby pecuniary penalties in favor of the United States have been incurred by the wrongdoers which shall come to the knowledge of such officer or of which he shall be credibly informed, stating the particular act, with the time when committed, and the names of the witnesses, if known, and shall immediately forward to the Solicitor a copy of such notice.

236. These instructions apply to forfeited recognizance cases arising from violations of internal-revenue laws, such cases being included in the class of general civil cases and not as internal revenue.

237. United States marshals will report to the Solicitor of the Treasury the existence and situation of any property belonging to the United States which is not in the care of any officer or agent of the Government, to the end that it may be protected and preserved. If he shall discover that any claim in favor of the Government, not in his hands, can be collected, he will report to the Attorney General, and recommend the best mode of proceeding. He will also report immediately to the Attorney General any default of a United States attorney, clerk, collector, or other person engaged in the collection of any debt due to the United States, or of the customs revenue, or in the disbursement of any money belonging to the Government.

RESISTANCE OR DEFIANCE OF FEDERAL AUTHORITY.

238. If special deputies or possemen should be needed, by reason of unusual resistance or defiance of Federal authority, actual or anticipated, action should be taken as directed in paragraphs 349 to 354 entitled "Extraordinary Expenses."

CHAPTER IV.

BOOKS AND RECORDS.

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GENERAL INSTRUCTIONS.

239. The following-named books are furnished by the Department for marshals' offices and may be obtained when needed by making requisition prepared on Form 17 A:

- (a) United States funds book.
- (b) Cash book.
- (c) Criminal docket.
- (d) Civil docket.
- (e) Ledger.
- (f) Register of United States prisoners in county jails.

NOTE.—Corrections in these books must be made by cancellation, never by erasure.

240. In executing the work upon these books, which should be kept up to date, the principles and methods set forth in the following directions and illustrations should govern:

UNITED STATES FUNDS BOOK.

241. This is a book of original entry for all cash transactions involving judiciary funds. Different appropriations, as well as the same appropriations for different fiscal years, must be carried in separate columns.

242. There should be entered in this book under the caption "Received"—

(a) All moneys advanced under the various judiciary appropriations.

(b) All moneys collected from payees on account of overpayments, disallowances, or otherwise.

NOTE. As to repayments of items disallowed, see also paragraph 255^b under the heading "Ledger."

243. There should be entered under the caption "Disbursed"—

(a) All payments made from judiciary appropriations.

(b) All deposits to the credit of the Treasurer of the United States, nonchecking account.

244. After the close of business on the last day of each quarter the columns of this book should be footed, and it should be balanced in the usual manner. These balances, as well as disbursements made during the quarter, as shown by the "funds book," must agree with the balances and disbursements as shown by the quarterly account current.

245. After the book has been balanced an analysis of balance should be made by comparison with the Treasurer's monthly statements. This analysis, which, if properly executed, will serve as a verification of the work on the funds book for the quarter, should be entered upon the left side of the book, in the following manner:

- (a) On deposit with the Treasurer of the United States at the close of——, as shown by Treasurer's statement. \$
- (b) Deduct outstanding checks as follows.
(Number, date, and amount of each check outstanding.)
- (c) Net balance in Treasury.
- (d) Add cash on hand, if any.
- (e) Add outstanding advances to witnesses, or others, if any.
- (f) Add balance due the United States marshal, if any.
- (g) Total balance due the United States (as shown by the funds book and account current).

246. The balances shown to be due the United States at the close of each quarter, as aforesaid, and the balances, if any, shown to be due the marshal, should be carried forward in the funds book, the former under the caption "Received" and the latter under the caption "Disbursed," and the transactions of the next quarter recorded with these balances as a basis.

247. The dates of the items covering amounts credited on requisitions should be the dates of the Treasury warrants. Such advances should be entered upon receipt of notices from the Department of Justice. The dates and numbers of the warrants may be entered afterwards upon receipt of formal notices from the Treasury.

248. The method of entering an advance to a witness and the manner of carrying an overdraft, as set forth in the illustration given, should be carefully noted. An overdraft in excess of the marshal's total balance subject to check should never be made.

United States funds, U. S. marshal's office.

[W. L. Stewart, U. S. Marshal. Under Bond dated Dec. 31, 1914.]

DISBURSED.

Date.	Check num-ber.	Names, etc.	Expense Incurred During Quarter Ended—	Salaries, Fees, and Expenses of Jurors, Marshals, Current Fiscal Year.	Salaries, Fees of Witnesses, Current Fiscal Year.	Sup- port of Prison- ers, Current Fiscal Year.	Pay of Bailiffs, etc., Current Fiscal Year.	Miscel- laneous Ex- penses s. Current Fiscal Year.	Salaries and Expenses of District Att'y's, Current Fiscal Year.	Pay of Regular Assis- tant Att'y's, Current Fiscal Year.	Salaries, District Judges, Current Fiscal Year.	Salaries, Fees, and Ex- penses of Mar- shals, Fiscal Year 1915.	Fees of Wit- nesses, Fiscal Year 1915.	Sup- port of Prison- ers, Fiscal Year 1915.	Total.	Other data.	
1915.																	
July 19	2314	Amos R. Burton	Sept. 30													\$15.00	Overpaid 40
" 19	5	Samuel Gordon.	"													22.00	cts. Repaid by Gordon Sept. 20.
" 19	6	John McDonald.	"													30.00	
" 19	7	George Channing	"													30.00	
" 26	8	Frank Eckenrode	"													40.00	
" 26	9	Henry Moffit....	June 30													48.00	
" 26	20	Martin Burwell.	"													33.25	
" 26	1	Violet C. Wil- liams.	"														\$25.00, advance to witness, E. W. S. Repaid by marshal E. W. S., Aug. 10, 1915.
Aug. 14	2	W. M. Chesterfield	Sept. 30													100.00	
" 31	3	Josiah Brown....	"													15.00	
Sept. 28	4	Charles McGuffey	"													17.40	
" 28	5	Patrick Burns....	"													22.20	
" 28	6	Austin Miles.....	"													19.80	
" 30	7	W. L. Stewart....	"													19.80	
" 30	8	W. M. Stewart....	"													247.65	
" 30	9	Treasurer U. S., Balance due U. S.	"													46.35	
" 30																388.00	
																5,604.40	
																6,679.65	

1 For deposit to nonchecking account.

[At this place there should be entered at the close of each quarter the statement required by par. 245.]

RECEIVED.

Date.	War- rant num- ber.	Names, etc.	Salaries, Fees and Expenses of Marshals, Current Fiscal Year.	Fees of Jurors, Current Fiscal Year.	Fees of Wit- nesses, Current Fiscal Year.	Sup- port of Prison- ers, Current Fiscal Year.	Pay of Bailiffs, etc., Current Fiscal Year.	Miscel- laneous Ex- penses, Current Fiscal Year.	Salaries and Expenses of District Att'ys, Current Fiscal Year.	Pay of Regular Assist- ant Att'ys, Current Fiscal Year.	Salaries, Fees, and Ex- penses of Mar- shals, Fiscal Year 1915.	Fees of Wit- nesses, Fiscal Year 1915.	Sup- port of Prison- ers, Fiscal Year 1915.	Total.	Other data.
1915, July 1	1	Amounts brought forward, Judiciary warrant. Dept. notice dated June 25, 1915.													
" 1	1	Repaid by W. L. Stewart, U. S. Mar. ¹	\$1,000.00	\$600.00	\$600.00	\$400.00	\$150.00	\$250.00	\$1,000.00	\$50.00	\$1,400.00	\$41.20	\$319.25	\$491.45	
Sept. 15		Repaid by W. L. Stewart, U. S. Mar. (office ex- penses). ²									14.15			14.15	Disallowed by Auditor, in accounts for Mch. qr., 1915.
" 15		Repaid by W. M. Chester- field, field deputy.									1.85			1.85	
" 20		Repaid by Samuel Gordon, witness.									3.00			3.00	
				.40										.40	Overpaid July 19, 1915—see check No. 2315.
		Balance due U. S. Mar. [constructive].										18.20		18.20	
			1,000.00	600.00	600.00	400.00	150.00	250.00	1,000.00	750.00	1,400.00	59.40	319.25	6,679.05	

¹ This amount repaid to the marshal by W. L. Stewart (who is the marshal) from his private funds, being amount disallowed by the Auditor from his expense account.² This amount either collected from party to whom it was erroneously paid, or, if that is impracticable, paid by the marshal from his private funds.

RECEIVED.

[illegible]

CASH BOOK.

249. This is a book of original entry for all moneys of every character received or disbursed by the marshal in his official capacity, other than judiciary appropriation funds recorded in the United States funds book. The cash book and the funds book are records of entirely different classes of moneys, which are to be maintained entirely separate and distinct.

250. Each entry should clearly state the facts and represent an actual cash transaction. If, however, a marshal simply exchanges receipts with the clerk of the court covering earnings of the marshal's office, without a corresponding interchange of money, entries should be made covering such receipts as if the money had been actually received by the marshal and repaid to the clerk.

251. Space should be set apart in this book for income-tax moneys, as directed in paragraph 192.

Cash Book.

W. L. Stewart, *U. S. Marshal.*

Docket and No.	Check No.	Date.	Items.	Funds other than United States.	
				Received.	Paid out.
		1915.			
Civ. 3866		July 1	Gates v. "E. Goldstrom." Deposit for costs by Hodson, Plt's Atty.	15.00	
" 3874		" 2	Milton v. Loose. Deposit for costs by Jackson & Henson, Attys.	10.00	
" "	120	" 19	Same v. Same. Fees to A. M. Sterling, Clk.		2.72
" "	121	Aug. 2	" " W. U. Tel. Co. Tel. to J. & H., Plt's Attys.		.22
" "		" 14	Same v. Same. Deposit for costs by Gans & Haman, Dft's Attys.	2.00	
" 3866		" 17	Gates v. "E. Goldstrom". Proceeds sale of boat, from Farmers & Merchants Trans. Co.	280.00	
" 3866		" "	Same v. Same. Fee for bill of sale, from Wm. P. Lawson.	1.00	
" "		" 27	Same v. Same:		
	122	" "	Advertising, to C. C. Fulton & Co.		12.45
	3	" "	" to L. C. Quinn & Sons.		2.00
	4	" "	Towage, to George W. Smith.		1.50
	5	" "	Auctioneer, to N. B. Lobe & Co.		15.00
	6	" "	Custodian, to Lewis Bozanzo.		20.50
	7	" "	Distrib. bills, to Noah T. Stanton.		.70
	8	" "	Nel proceeds sale, to A. M. Sterling, Clk.		206.95
	9	" 30	Refund of deposit, to T. S. Hodson, Atty.		15.00
		Sept. 30	Balance.		30.96
			Total.	308.00	308.00
		1915.			
		Oct. 1	Balance bro't down.	30.96	
Civ. 3866	130	" 8	Gates v. "E. Goldstrom." Fees to A. M. Sterling, Clk.		
" 3874	130	" "	Milton v. Loose. Fees to A. M. Sterling, Clk.		21.90
" "	131	" 11	Same v. Same. Bal. plt's deposit to Jackson & Henson, Attys.		4.00
					5.06

CIVIL AND CRIMINAL DOCKETS.

252. One page is allotted for each case in these books. Each page consists of the following primary divisions:

(a) Issuance of process.

Entries hereunder, technically known as the docketing of writs, should be made from the writs themselves immediately upon receipt and before service, excepting as to writs which are handed to deputies by clerks of courts or commissioners for immediate service, when they will be made from the report of such action submitted on Form 645. (See pars. 211 to 214, under service of process.)

(b) Execution of process.

(c) Fees and expenses in the service of process.

Entries in these divisions should be made from Form 32, or from the statement prepared on the regular account blank by the officer serving the writs. Fees and expenses must be fully itemized.

(d) Moneys received.

(e) Moneys paid out.

Entries in these divisions should be made by posting from the cash book.

253. All fees earned and expenses incurred in suits between individuals and corporations must be recorded and itemized in the civil docket.

When and before whom returned:	Sept. 25	Executing bill of sale.....	1	1.00	.....
Aug. 26, 1915.				14.30	7.60
D. Ct.					
Nature of writ (*)		(f)			
When issued.....					
By whom issued.....					
When returnable.....					
When received.....					
When, how, to whom, and where delivered for service.					
When and before whom returned					

Moneys received.			Moneys paid out.		
Date.	From whom and for what.	Cash-book page.	Plaintiff.	Defendant.	
1915.					
July 1	T. S. Hodson, atty. for lib., fees, etc.	33	12.45		
Aug. 17	Farmers & Merchants Trans. Co., proceeds sale of boat.	"	2.00		
"	Wm. P. Lawson, fees.	"	1.50		
			15.00		
			20.50		
			.70		
			206.95		
			15.00		
			21.90		
			296.00		

INSTRUCTIONS.

* Enter all writs in the order in which issued. If additional space is needed for a case continue it on another page.

† Enter here items pertaining to writ recorded in opposite space on left side of page.

U. S. MARSHAL'S OFFICE.

Marshall M. Milton,
McCormick & Smith,
Jackson & Henson,
Attorneys,

vs.
Samuel B. Loose,
Henry H. Keedy, jr.,
Gans & Heman,
Attorneys.

Marshal's No. 3874.
Court No. 146 Law.

Issuance of process.			Execution of process.		Fees earned and expenses incurred and paid in service of process.				
General data.	Upon whom to be served.	Date.	Place.	By whom and how.	Date.	Nature of items.	Ledger page.	Fees.	Ex- penses.
Nature of writ (*), summons..... When issued, July 2, 1915. By whom issued, A. M. Sterling, clerk. When returnable, Aug. 3, 1915. When received, July 2, 1915. When, how, to whom, and where delivered for service: July 2, 1915. Mail. Dept. Chesterfield, Eagerstown, Md. When and before whom re- turned: July 17, 1915. Dist. Court.	Samuel B. Loose.	1915. July 15	Edgemont, Md.	By Deputy Chesterfield, up- on defendant, personally and by copy.	1915. July 15	(†) Serving summons..... " Mileage..... " Car fare..... " ".....	92	2.00 .72 .35 .35	.70
Nature of writ (*), Plaintiff's When issued, Aug. 14, 1915. By whom issued, A. M. Sterling, clerk. When returnable, Sept. 10, 1915. When received, Aug. 16, 1915. When, how, to whom, and where delivered for service: Aug. 16, 1915. Mail. Dept. Coleman, Baltimore, Md.	Franklin W. Levee, Ernest Harry B. Lottmeyer, Jr., S. Robinson.	Aug. 26	Balto.	Deputy Coleman, personally and by copy.	Aug. 26	(†) Subpoenas.....	34	1.50	
Dept. Chesterfield, When and before whom re- turned: Sept. 3, 1915, D. Ct.	J. B. Ferguson.	Aug. 28	Eagerstown, Md.	Deputy Chesterfield, per- sonally and by copy.	Aug. 28	Subpoenas.....	92	.50	

Nature of writ (*), Dfts. Spas.... J. B. Ferguson, When issued, Aug. 14, 1915. By whom issued, A. M. Sterling, et al. When returnable, Sept. 10, 1915. When received, Aug. 16, 1915. When, how, to whom, and where delivered for service: Mail. Deputy Chesterfield. agerstown, Md. When and before whom re- turned: Sept. 3, 1915. D. Ct.	Aug. 23	agerstown...	Deputy Chesterfield, per- sonally and by copy.	Aug. 23	(†) Subpoenas.....	92	2.00
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Moneys received.					Moneys paid out.				
Date.	From whom and for what.	Cash- book page.	Plaintiff.	Defendant.	Date.	To whom and for what.	Cash- book page.	Plaintiff.	Defendant.
1915. July 2	Jac ⁿ son & T ⁿ son (Roanoke, Va.), for fees, etc.	33	10.00	.....	1915. July 19 Aug. 2 Oct. 8 " 11	Pd. A. M. Sterling, clerk. Western Union Telegraph Co. Pd. A. M. Sterling, clerk. Jackson & T ⁿ son, bal. deposit.....	33 33 33 33	2.72 2.22 2.00 5.06	..... ..... 2.00
Aug. 14	Gans & T ⁿ aman, for fees, etc.....	33	.....	2.00				10.00	2.00
			10.00	2.00					

LEDGER.

254. The following accounts arranged in the order indicated by the ledger form, with the name of the marshal entered at the head of each page, should be maintained:

- (a) Individual accounts of the marshal and each salaried deputy.
- (b) Individual accounts of field deputies.
- (c) Office expense accounts of marshal and attorney.
- (d) Specific appropriation accounts.
- (e) Consolidated or general appropriation account.
- (f) Account of earnings collected.
- (g) Account of uncollected earnings.
- (h) Individual memorandum accounts covering income-tax deductions. (See par. 193.)

METHOD OF POSTING ITEMS TO LEDGER ACCOUNTS.

255. Postings should be made to the ledger as follows:

FROM THE UNITED STATES FUNDS BOOK.

(a) The total amount of each Treasury warrant to the consolidated appropriation account, and the specific amount credited to each appropriation thereunder, to the proper appropriation account.

(b) Collections on account of disallowances or otherwise: To the appropriate account of the individual or corporation from whom received when such an account is maintained in the ledger, or the accounts of "Office Expenses."

(c) Disbursements made to individuals with whom a ledger account is maintained or amounts withheld on account of income-tax: To the proper individual accounts, excepting that amounts paid on account of salary to marshals and deputies not subject to income-tax deductions need not be posted.

(d) Deposits to the credit of the Treasurer of the United States (nonchecking account); the total amount to the consolidated appropriation account and the specific amount under each appropriation to the proper appropriation account.

(e) Payments made on account of office expenses; to the proper office expense accounts.

FROM THE CASH BOOK.

256. Earnings collected from individuals and corporations after the rendition of the account for the quarter in which they were earned; to the account of uncollected earnings in the ledger. (See paragraphs 260 to 263.)

257.

FROM THE DOCKETS.

(a) The fees earned and the expenses payable by the United States to the marshal and each deputy; to the proper individual accounts in the ledger.

(b) Earnings collected in each case, as shown by the civil docket and the payment thereof to the clerk of the court; to the account of earnings collected.

258.

FROM THE QUARTERLY ACCOUNTS.

(a) The aggregate amount of each account stated by appropriations; to the consolidated appropriation account.

(b) The specific amount disbursed under each appropriation; to the proper appropriation account.

(c) Uncollected earnings; to the account of uncollected earnings. (See pars. 260 to 263.)

259. FROM THE STATEMENTS OF SUSPENSIONS AND DISALLOWANCES.

(a) The total amount of suspensions and disallowances stated by appropriations; to the consolidated appropriation account.

(b) The total amount under each appropriation; to the proper appropriation account.

(c) The total amount from the account of the marshal and each deputy and from the accounts of office expenses; to the proper accounts.

NOTE.—Allowances on explanation or appeal should also be credited in the three respects above mentioned, *a*, *b*, and *c*, from the Treasury notices of such allowance.

ACCOUNT OF UNCOLLECTED EARNINGS.

260. Upon the transmission of each quarterly account to the Department all accrued earnings from individuals and corporations reported therein which have not been collected should be entered in this account in the left-hand column.

261. If any such amount is subsequently collected, the collection should be posted from the Cash Book to the right-hand column on the same line as the original entry of the particular item. The vacant spaces in the right-hand column will then show at a glance the uncollected earnings of the office.

262. Items should not be charged off in this account, except when collected or excepted from further consideration by specific instructions from the Department.

263. Earnings in pauper cases should be included in this account.

1916, Dec. 15	Suspended by Auditor, certificate No. 1462. (Disallowed Dec. 30, 1916.)	632.50	1917, Jan. 1	Repaid the U. S. marshal, by W. L. Stewart, from his private funds.	U. S. F.	61	208.25 632.50 <hr/> 27.00 27.00
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1 Ledger accounts of all salaried deputies are made up in all respects the same as the ledger account of the marshal.

W. L. STEWART, Marshal.

Salaries, fees, and expenses.¹

Dr.

FISCAL YEAR 1916.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	No.					No.	
1915. July 1	Judiciary warrant No. 1952.	U. S. F.	51	\$1,000.00	1915. Oct. 10	Acct. Sept. qr., 1915.	Acct. cur.	1	\$1,300.05
Oct. 2	" " 3450.	"	51	1,500.00	1916. Jan. 15	" Dec. " 1915.	"	2	2,304.90
Dec. 20	" " 5170.	"	59	2,000.00	Apr. 16	" Mch. " 1916.	"	3	1,719.51
1916. Mch. 30	" " 7010.	"	68	1,500.00	July 20	" June " 1916.	"	4	2,080.50
June 20	" " 9107.	"	75	2,000.00	Sept. 30	Covered into Treas., ctf. of deposit No. 720.	U. S. F. Book.	61	580.04
				8,000.00					8,000.00
1916. Dec. 15	Suspended by aud., ctf. No. 1462. (Disallowed Dec. 30, 1916, \$104.81)			189.81	Dec. 30	Allowed by Auditor on explanation.			85.00
					1917. Feb. 10	" " Comptroller on appeal.	U. S. F. Book.	61	10.00
					" 21	Covered into Treas., ctf. of deposit of No. 900.			94.81
				189.81					189.81

¹ Other appropriation accounts are kept in the same manner.

Office expense account of Marshal.

W. L. Stewart, U. S. Marshal.

Dr.

FISCAL YEAR 1916.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	Page.				Book.	Page.	
1915.									
Sept. 30	J. M. Carroll, P. M.	U. S. F.	52	\$1.50	1915.	Acct. Sept. qtr., 1915			\$17.00
" 30	Western Union Tel. Co.	"	52	7.50	Oct. 10				
" 30	Northwestern Tel. Co.	"	52	7.50	1916.				
Dec. 30	J. M. Carroll, P. M.	"	63	8.00	Jan. 15	" Dec. " 1915			20.10
" 30	Wm. U. Tel. Co.	"	63	10.60	Apr. 16	" Mch. " 1916			21.00
" 31	Northwestern Tel. Co.	"	63	8.00	July 20	" June " 1916			18.25
1916.									
Mch. 31	J. M. Carroll, P. M.	"	71	1.50					
" 31	W. U. Tel. Co.	"	71	11.50					
" 31	Northwestern Tel. Co.	"	71	8.00					
June 30	J. M. Carroll, P. M.	"	79	1.50					
" 30	W. U. Tel. Co.	"	79	8.75					
" 30	Northwestern Tel. Co.	"	79	8.00					
				76.35					76.35
1916.									
Dec. 15	Suspended by auditor, certificate No. 1462 (Disallowed Dec. 30, 1916.)			1.85	1917.				
					Jan. 1	Repaid to U. S. marshal by W. L. Stewart [from his private funds].	U. S. F.	61	1.85
				1.85					1.85

(Payments to telegraph co.'s should be made *monthly*. They are here shown *quarterly* for brevity in illustrating.)
A LIKE ACCOUNT TO BE KEPT OF OFFICE EXPENSES OF DISTRICT ATTORNEY.

W. L. STEWART, U. S. Marshal.
DR.

Consolidated account.

UNDER BOND DATED DEC. 31, 1914.¹

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	Page.				Book.	Page.	
1915.									
July 1	Judiciary warrant No. 1952.....	U. S. F....	51	\$6,150.00	1915.	Acct. Sept. qr., 1915: S., F. & E., \$1,300.05; jurors \$900.00; witnesses, \$1,950.60; pris., \$1,100.00; bailiffs, \$98.00; M. ex., \$400.00.	Acct. cur...	1	\$5,418.65
Oct. 2	" " 3450.....	"	51	5,600.00	Oct. 10				
Dec. 20	" " 5170.....	"	59	9,050.00	1916.				
1916.					Jan. 15	Acct. Dec. qr., 1915: S., F. & E., \$1,304.90; jurors, \$1,090.20; witnesses, \$1,720.00; pris., \$1,075.00; bailiffs, \$196.00; M. ex., \$450.00; S. & E., dist. attys., \$1,075.35; pay of reg. asst. attys., \$750.00; sals. dist. judges, \$1,500.00.	"	2	9,161.45
Feb. 20	" " 6425.....	"	67	3,500.00	Apr. 16	Acct. Mch. qr., 1916: S., F. & E., \$1,719.51; jurors \$900.25; witnesses, \$2,971.40; pris., \$1,268.50; bailiffs, \$110.00; M. ex., \$425.00; S. & E., dist. attys., \$1,068.45; pay reg. asst. attys., \$750.00; sals. dist. judges, \$1,500.00.	"	3	10,713.11
Mar. 30	" " 7010.....	"	68	4,850.00	July 20	Acct. June qr., 1916: S., F. & E., \$2,080.50; jurors, \$1,010.60; witnesses, \$3,150.30; pris., \$1,356.40; bailiffs, \$84.00; M. ex., \$475.00; S. & E., dist. attys., \$1,078.10; pay reg. asst. attys., \$750.00; sals. dist. judges, \$1,500.00.	"	4	11,493.90
June 20	" " 9107.....	"	75	9,300.00	Sept. 30	Covered into Treas., ctf. of deposit No. 720.....	U. S. F....	61	1,632.89
									38,450.00
1916.									
Dec. 15	Suspension by Auditor ctf. No. 1462, from sup. pris., \$12.60, salaries, fees, and expenses, \$180.81.			202.41	1916.	Allowed by auditor on explanation.....			85.00
					1917.	" " Comptroller on appeal.....			10.00
					Feb. 10	Covered into Treas., ctf. of deposit No. 900.....	U. S. F....	61	107.41
					" 21				202.41

¹ Not under fiscal years. This account should cover all transactions under a given bond. It should not be closed except upon the execution and approval of a new bond or upon expiration of the marshal's term of office. However, if the marshal so desires, it may be balanced and the balance carried down on June 30th of each year.

Register of U. S. Prisoners Committed to the _____ County Jail at _____

895-16. (To face page 75.)

*Earnings collected.*¹W. L. Stewart, *U. S. Marshal.*

Dr.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	Page.				Book.	Page.	
1915.					1915.				
July 5	Gates v. "E. Goldstrom"	Civ. dkt..	27	\$4.00	July 19	Pd. clk., receipt No. 1.	Civ. dkt..	30	\$2.72
" 15	Milton v. Loose	"	30	2.72	Oct. 8	" 2.	"	27	4.00
Aug. 17	Gates v. "E. Goldstrom"	"	27	16.90	" 8	" 3.	"	"	17.90
" 28	Milton v. Loose	"	30	4.00	" 8	" 4.	"	30	4.00
Sept. 25	Gates v. "E. Goldstrom"	"	27	1.00					
				28.62					28.62

¹ In cases in which fees and costs are collected otherwise than from the United States.*Uncollected earnings.*W. L. Stewart, *U. S. Marshal.*

Dr.

Cr.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	Page.				Book.	Page.	
1904.					1915.				
June 23	Jones v. Gas. Co.—Deft.	Civ.	847	\$7.45	Sept. 15	Rec'd from C. L. Sims, dft's atty.	C. B.	62	\$7.45
July 3	" S. V. Green	Crim.	1815	1.75	Oct. 4	Chgd. off. Dept. letter, Sept. 30, 1915.	"	"	1.75
Oct. 11	Simons v. Friedlander, Plff.	Civ.	901	16.05					
1907.									
Jan. 4	Laue v. Hartley,	"	1217	9.10					

Name.

Offense.

Temporary.

			Commissioner.	Marshal or Deputy.	Date Committed.
1	John A. Smith.....	Vio. int. rev. laws.....	Allison.....	Hughes.....	July 31, 18
2	William Murphy.....	Counterfeiting.....	".....	Jenkins.....	Aug. 24,
3	Thomas Jones.....	Vio. postal laws.....	".....	".....	Sept. 4,
4	Charles Hepler.....	Conspiracy.....	".....	Hughes.....	" 16,
5	Henry P. Jacobs.....	".....	".....	".....	" 16,
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71					

*Earnings collected!*¹

W. L. Stewart, U. S. Marshal.

DR.

CR.

Date.	Items.	Reference to—		Amount.	Date.	Items.	Reference to—		Amount.
		Book.	Page.				Book.	Page.	
1915.					1915.				
July 5	Gates v. "E. Goldstrom"	Clv. dkt..	27	\$4.00	July 19	Pd. clk., receipt No. 1.....	Clv. dkt..	30	\$2.72
" 15	Milton v. Loose.....	" "	30	2.72	" 8	" " 2.....	" "	27	4.00
Aug. 17	Gates v. "E. Goldstrom"	" "	27	16.90	" 8	" " 3.....	" "	"	17.90
" 28	Milton v. Loose.....	" "	30	4.00	" 8	" " 4.....	" "	30	4.00
Sept. 25	Gates v. "E. Goldstrom"	" "	27	1.00					
				28.62					28.62

In cases in which fees and costs are collected otherwise than from the United States.

Uncollected earnings.

W. L. Stewart, U. S. Marshal,

DR.

CR.

Date.	Items.	Reference to—		Amount.	Date.	Items.*	Reference to—		
		Book.	Page.				Book.	Page.	
1904. June 23 July 5 Oct. 11	Jones v. Gas. Co.—Deft. “ U. S. V. Green, Simons v. Friedlander, Plff.	Civ..... Crim..... Civ.....	847 1815 901	\$7.45 1.75 18.05	1915. Sept. 15 Oct. 4	Rec'd from C. L. Sims, dft's atty. Chgd. off. Dept. letter, Sept. 30, 1915.	C. B.....	62	\$7.45 1.75
1907. Jan. 4	Laue v. Hartley, “	“	1217	9.10					

FILES AND MEMORANDUM RECORDS.**FILES.**

264. The following papers should be systematically and carefully filed in the marshal's office, separately from his accounts:

(a) Incoming letters and copies of all outgoing letters.

(b) Statements of suspensions, disallowances, allowances on explanation, and allowances on revision, received from the Treasury Department.

(c) Notices of appointment and changes in personnel received from the department, or otherwise.

(d) Original receipts on Form 71.

(e) Certificates of the clerk of the court for the payment of jurors and witnesses. These should be arranged alphabetically; separately for jurors and witnesses and separately for each term of court. Fasten together at upper left-hand corner.

(f) Commitment and release cards.

(g) Other official papers, notices, and reports, or the duplicates thereof.

INDIVIDUAL PROCESS RECORD.

265. A memorandum book record should be maintained showing separately for the marshal and each deputy in chronological order the writs issued to him for service. A separate page or pages should be allowed for each official. Brief notations should be made at the right, opposite the entry of each writ when it is returned, in such manner that the vacant space at the right will indicate at a glance the unserved writs in the hands of each official. Entries in this book should be brief.

RECORD OF ATTENDANCE OF BAILIFFS AND CRIERS.

266. A memorandum record book should be maintained, showing in a convenient form the daily attendance of bailiffs and criers. Entries should be made, based upon the personal observation of the marshal or one of his deputies. Before making payments such records should be verified by comparison with the court records.

CHAPTER V.

ACCOUNTS, EARNINGS, SALARIES, EXPENSES, AND FEES PAYABLE, AND APPROPRIATIONS CHARGEABLE.

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The appropriation "Salaries and Expenses of District Attorneys, U. S. Courts".....	119

GENERAL INSTRUCTIONS.

DEFINING ACTUAL PAYMENTS, ETC.

267. All items of disbursement must represent money actually and fully paid to the payee named in the account. The personal obligation of the disbursing officer to the payee does not constitute payment, nor the issuance of a certificate showing that money is due.

268. Each charge made for service should represent service actually performed by the person claimed to have performed it, and each item of expense for which credit is claimed should represent money actually paid.

RENDITION AND APPROVAL.

269. Accounts of marshals are prepared quarterly, in duplicate, upon forms furnished by the Department of Justice and listed in a separate publication. The quarters of the fiscal year end September 30, December 31, March 31, and June 30. Before transmission to the department such accounts must be submitted for approval in open court, by an order entered of record. (See act Feb. 22, 1875, sec. 1, 18 Stat. L., 333; act July 31, 1894, sec. 12, 28 Stat. L., 209; act May 28, 1896, sec. 13, 29 Stat. L., 183.)

270. After approval by the court, the original account, with the account current and each voucher and subvoucher plainly marked "original," will be forwarded to the Department of Justice. The duplicate account, which must be in fact a duplicate and not merely a copy, should remain on file in the office of the clerk of the court.

271. The law requires quarterly accounts to be submitted for approval, as above directed, within 20 days after the close of each quarter. If submitted for approval later than 20 days, as aforesaid, a delinquency arises which must be reported to the Attorney General by letter, under separate cover, and fully explained.

272. The amount to be included in the court's order of approval (a certified copy of which appears on the back of the account current) is the total amount of disbursements shown by the account current, less such amount, if any, as is not approved by the court.

273. Seals to copies of orders approving accounts are required, but seals of clerks to affidavits and to copies of orders relative to vouchers are not required.

274. If any part of an account is not approved by the court, the item or items disapproved should be specified. A schedule showing such items, if any, must be attached to the account current, stating seriatim and in detail the reasons for disapproval.

275. The disapproval by the court of an item in an account is conclusive upon the accounting officers. (See 5 Comp., 131.)

276. All disbursing officers of the United States must render their accounts quarterly, but the Secretary of the Treasury may direct any or all of such accounts to be rendered more frequently if, in his judgment, the public interests so require. (See 26 Stat. L., 413.)

FISCAL YEAR AND APPROPRIATION.

277. Receipts, disbursements, and balances under different appropriations, or under the same appropriations for different fiscal years, must be maintained in all respects entirely separate and distinct.

278. The fiscal year begins July 1 and ends June 30. The date or dates on which fees are earned, services rendered, or expenses incurred, and not the date of payment, determines the fiscal year of the appropriation from which payment covering said items must be made.

PREPARATION—GENERAL INSTRUCTIONS.

279. One account should be prepared (upon current forms provided therefor) for each quarter of the fiscal year, excepting in cases where there is a change of official bond or the marshal is retiring from office, when it may be necessary to render an account for a fractional portion of a quarter.

280. Each account (unless transactions occur under different bonds) should cover completely all financial transactions involving judiciary funds which occurred during the quarter for which it is rendered; that is to say, should cover completely all such money actually received and all such disbursements and deposits actually made during the quarter.

281. All items of expense incurred, services rendered, and fees earned during a given quarter should be paid, as far as may be practicable, prior to the close of business on the last day of the quarter. In order to facilitate this matter vouchers of deputies, jurors, witnesses, bailiffs, and others should be prepared, paid, and arranged promptly and regularly.

282. Vouchers covering items properly payable by the marshal, incurred during any given quarter too late to be examined and paid prior to the close of business on the last day of said quarter, should be included in the account for the succeeding quarter as supplemental items.

283. In like manner properly payable items, arising during the incumbency of a given marshal but remaining unpaid after he retires from office, should be paid by the incoming marshal and included in his opening account as supplemental items, provided of course the items are not so old as to necessitate their being handled as claims and forwarded for settlement direct from the Treasury. (See pars. 593 to 600.)

284. Supplemental items for prior quarters (other than the quarter immediately preceding that for which the account is rendered) should be supported by an explanation of the delay in settlement and a certificate to the effect that a careful examination discloses no record of previous payment.

285. Vouchers covering expenses incurred during different fiscal years, different quarters of each fiscal year, and under different appropriations should be maintained entirely separate and distinct and separately abstracted.

286. All the vouchers and abstracts pertaining to a given account should be forwarded on the same day, together with the account current, and, excepting in cases where their bulk will not permit, in the same package.

287. All vouchers and other papers belonging to a given account should be placed together *in an orderly manner*, with the account current on top, and carefully separated by bands or otherwise from any other account or accounts transmitted in the same package.

288. Vouchers and other papers pertaining to an account should be forwarded *without being folded*, unless larger than 8½ by 14.

ACCOUNTS CURRENT.

(See illustration facing this page.)

289. There must ordinarily be an entirely separate accounting and hence separate accounts current under different bonds, unless one of them is an additional bond.

290. Receipts, disbursements, deposits, or balances for different fiscal years must be shown in different columns, although carried into a single set of totals.

291. The sum of the debits and the sum of the credits in any given column must in every instance be identical. The entire account current should be a balancing, self-proving statement.

292. All balances shown to be due the United States, or due the marshal (i. e., overdrafts) by a given account current should be carried forward without change into the succeeding account current (assuming it to be under the same appointment and bond).

293. The total amount of repayments on account of conceded disallowances, or otherwise, placed to the credit of a marshal (checking account) during any given quarter, should appear as a credit item; the total amount under each appropriation being separately shown. Such credit item should be described as follows:

By amount of conceded disallowances in account for quarter ending, as per abstract herewith.

294. The above-mentioned abstract should be attached to the account current. It should describe fully and in detail the repayments and deposits in question.

295. The total balance shown to be due the United States must be analyzed, as provided by the form. If the Treasurer's statement for the last month of the quarter has not been received when the account is ready to be transmitted to the department, this analysis may be omitted, the reason for the omission being noted. In such cases it must be prepared later, however, and transmitted to the department promptly after the receipt of the Treasurer's statement.

296. The certificate of the United States attorney in regard to charges in Chinese exclusion cases and cases under the internal revenue laws must accompany each quarterly account containing such charges. Form 392 should be used for this purpose. Instructions relative to the order of approval will be found in paragraphs 271 to 275.

GENERAL ABSTRACTS.

297. Quarterly accounts in many instances will include payments covering expenses incurred during the preceding quarter; also in a few instances payments on account of expenses incurred during still earlier quarters. It is therefore necessary to submit with each account current a general abstract, prepared in triplicate, upon the

AMENDED FORM 14.

The United States in account current with John Doe, United States marshal for the _____ district of _____, from July 1, 1914, to Sept. 30, 1914, under bond dated May 25, 1914.

	Fiscal year 1915.								Fiscal year 1914.										
	Salaries, Fees, and Expenses of Marshals	Fees of Jurors.	Fees of Wit- nesses.	Support of Prisoners.	Pay of Bailiffs, etc.	Miscella- neous Expenses.	Salaries and Expenses of District Attor- neys.	Pay of Regular Assistant Attor- neys.	Salaries, Fees, and Expenses of District Judges.	Salaries, Fees, and Expenses of Marshals.	Fees of Jurors.	Fees of Wit- nesses.	Support of Prisoners.	Pay of Bailiffs, etc.	Miscella- neous Expenses.	Salaries and Expenses of District Attor- neys.	Pay of Regular Assistant Attor- neys.	Salaries, Fees, and Expenses of District Judges.	Total.
DEBITS.																			
To disbursements as shown by abstract and vouchers herewith.....	\$1,305.28	\$4,745.35	\$2,952.60	\$782.92	\$626.93	\$3,737.32	\$57.35			\$123.75	\$4,567.85	\$3,164.90	\$639.35	\$16.80	\$1,805.44	\$134.15			\$24,700.99
Deposited unexpended balances for fiscal year 1914, Sept. 30, 1914, per certificate of deposit No. 434.....																			
Balance due the United States.....		254.65	47.40	206.98	73.07	1,262.68	212.65			47.66	10.10	13.04		.48	4,847.58	46.52			4,965.38
Total.....	1,305.28	5,000.00	3,000.00	1,000.00	700.00	5,000.00	300.00			171.41	4,577.95	3,177.94	639.35	17.28	6,653.02	180.67			31,722.90
CREDITS.																			
By balance due the United States from last account.....										54.41	82.10	211.24		17.28	450.00	180.67			995.70
By advances:																			
Warrant No. 281, dated July 7, 1914.....	200.00	1,000.00	1,000.00		200.00	1,000.00	100.00												3,500.00
Warrant No. 571, dated July 14, 1914.....	100.00																		100.00
Warrant No. 847, dated July 30, 1914.....		1,000.00																	1,000.00
Warrant No. 968, dated July 22, 1914.....																			600.00
Warrant No. 1862, dated Aug. 7, 1914.....	200.00		2,000.00	1,000.00	500.00	3,500.00	200.00												7,400.00
Warrant No. 2488, dated Aug. 22, 1914.....										117.00	4,495.53	2,986.70	639.35		6,203.02				14,421.92
Warrant No. 3199, dated Sept. 17, 1914.....	600.00	3,000.00																	3,600.00
By corrections on account of—																			
Due United States marshal, appropriation overdrawn.....	105.28																		105.28
Total.....	1,305.28	5,000.00	3,000.00	1,000.00	700.00	5,000.00	300.00			171.41	4,577.95	3,177.94	639.35	17.28	6,653.02	180.67			31,722.90

DEPOSITED—

With Treasurer of United States.....			
Advanced Witness Jones, E. Dist., Mo.....	\$6,475.30	\$4,574.05	\$1,901.25
Otherwise kept (manner and authority for so keeping): Overdraft as above shown.....			50.00
Total.....			2,056.53

JOHN DOE,
U. S. Marshal

form provided for this purpose, one copy to be filed with the duplicate account and two copies sent to the department with the original account.

298. This abstract indicates how much of the total amount disbursed under each appropriation covers expenses which were incurred during the quarter for which the account is rendered and how much covers expenses which were incurred during each prior quarter, respectively. The general abstract should be carefully verified.

EXPLANATIONS, SUSPENSIONS, DISALLOWANCES, AND REQUESTS FOR DECISIONS FROM THE COMPTROLLER.

299. Responses to requests from the Department of Justice for information relative to accounts should be in duplicate. They should be given immediate attention.

300. For instructions relative to explanations, suspensions, appeals to, and requests for decisions from, the Comptroller, see paragraphs 1075 to 1087, instructions to commissioners.

PAYMENT TO INTESTATE DECEDENTS.

301. Before making payment upon the vouchers of a deceased person, upon whose estate letters of administration or letters testamentary have not been issued, a special affidavit must be executed by the party in interest and attached to the voucher. Forms for such affidavits will be furnished by the Department of Justice upon application.

FEES AND COSTS IN EXTRADITION CASES.

(Fugitives from foreign jurisdiction.)

302. Credit for disbursements in extradition cases should be claimed in the regular quarterly accounts, as in other cases, the same rules and limitations being applicable. (See 32 Stat. L., 475.)

303. An abstract of such disbursements separate from and in addition to the regular abstract, showing the voucher and page where each case is to be found, must accompany quarterly accounts.

304. Form 21 should be used for abstracting salaries, fees, and expenses of marshals, and Form 125 for other appropriations.

305. When the entire amount of the marshal's fees and costs in a given extradition case has been definitely ascertained, he should immediately furnish an itemized statement thereof to the judge or commissioner who heard the case, in order that the latter may forward to the Department of Justice a certified statement of all fees and costs of every nature therein (including his own fees when the hearing is by a commissioner).

The United States in account current u May 25, 1914.

	Salaries, Fees, and Expenses of Marshals.	Pay of Regular Assistant Attor- neys.	Salaries, District Judges.	Total.
DEBITS.				
To disbursements as shown by abstract and vouchers herewith.....	\$1,305.28			\$24,700.99
Deposited unexpended balances for fiscal year 1914, Sept. 30, 1914, per certificate of deposit No. 434.....				4,965.38
Balance due the United States.....				2,056.53
Total.....	1,305.28			31,722.90
CREDITS.				
By balance due the United States from last account.....				995.70
By advances:				
Warrant No. 281, dated July 7, 1914.....	200.00			3,500.00
Warrant No. 571, dated July 14, 1914.....	100.00			100.00
Warrant No. 847, dated July 20, 1914.....				1,000.00
Warrant No. 968, dated July 22, 1914.....	100.00			600.00
Warrant No. 1862, dated Aug. 7, 1914.....	200.00			7,400.00
Warrant No. 2488, dated Aug. 22, 1914.....				14,421.92
Warrant No. 3199, dated Sept. 17, 1914.....	600.00			3,000.00
By corrections on account of—				
Due United States marshal, appropriation overdrawn.....	105.28			105.28
Total.....	1,305.28			31,722.90

DEPOSITED—

With Treasurer of Ur
Advanced Witness Jo
Otherwise kept (mar

Total.....

form provided for this purpose, one copy to be filed with the duplicate account and two copies sent to the department with the original account.

298. This abstract indicates how much of the total amount disbursed under each appropriation covers expenses which were incurred during the quarter for which the account is rendered and how much covers expenses which were incurred during each prior quarter, respectively. The general abstract should be carefully verified.

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FEES AND COSTS IN EXTRADITION CASES.

(Fugitives from foreign jurisdiction.)

302. Credit for disbursements in extradition cases should be claimed in the regular quarterly accounts, as in other cases, the same rules and limitations being applicable. (See 32 Stat. L., 475.)

303. An abstract of such disbursements separate from and in addition to the regular abstract, showing the voucher and page where each case is to be found, must accompany quarterly accounts.

304. Form 21 should be used for abstracting salaries, fees, and expenses of marshals, and Form 125 for other appropriations.

305. When the entire amount of the marshal's fees and costs in a given extradition case has been definitely ascertained, he should immediately furnish an itemized statement thereof to the judge or commissioner who heard the case, in order that the latter may forward to the Department of Justice a certified statement of all fees and costs of every nature therein (including his own fees when the hearing is by a commissioner).

306. Marshals should not pay for services of an interpreter in an extradition case unless authorized by the department.

307. If the representative of the foreign Government desires to employ a stenographer to expedite the hearing, the stenographer should be paid by such representative and not by the marshal.

308. No money should be received by the marshal from any source other than the United States on account of fees or expenses in extradition cases.

309. A warrant of arrest issued by a commissioner in an extradition case may be served outside of the district, but the defendant can not be returned to the commissioner who issued the warrant without a hearing in the district where he was arrested. (See 194 U. S., 205.)

EARNINGS FROM INDIVIDUALS AND CORPORATIONS.

DEPOSITS TO SECURE PAYMENT OF COSTS.

310. A bond or deposit to secure costs must be obtained in advance, covering proposed services for individuals and corporations, unless they are relieved from prepayment by the act of June 25, 1910 (see 36 Stat. L., 866), or some other provision of law.

310a. Every seaman *who is a citizen of the United States* is entitled to the benefit of the poor suitor's act (36 Stat. L., 866) upon taking the oath therein prescribed, but this oath relieves only the individual who takes it from the prepayment of fees and costs. If the poor suitor prevails, your fees for services rendered in his behalf should be collected and reported in the usual manner.

311. Bonds must be drawn to cover specifically the payment of all costs accruing to the United States.

312. Receipts on Form 63 should be given for deposits made to secure costs.

AMOUNTS COLLECTIBLE.

313. Fees and emoluments which were, by law, payable to marshals prior to the act of May 28, 1896, are collectible from private litigants. They should be collected promptly and paid to the clerk of the court having jurisdiction, receipts to be taken in duplicate on Form 71, the originals retained and the duplicates attached to the marshals' original accounts. (See 29 Stat. L., 179.)

314. Regular fees, as described elsewhere under their respective headings, are collectible from individuals and corporations.

315. In the districts of Arizona, Idaho, Nevada, New Mexico, North Dakota, and Wyoming double fees should be collected. (For districts in which double fees are payable to witnesses, see par. 491.)

316. If the officer serving such process receives from the Government actual expenses, and such expenses are greater than the mileage, said actual expenses are collectible; if, however, the mileage is greater than the actual expenses, said mileage is collectible.

317. When two or more writs are served on the same trip on behalf of *different* individuals or corporations, mileage should be collected on each of such writs.

318. When more than two writs are served on the same person on the same trip on behalf of the *same* individual or corporation, mileage should be collected on only two of such writs.

319. The actual expenses, chargeable against the United States, of making an unsuccessful endeavor to serve process for private litigants should be collected.

320. If objection be made to the directions contained in the preceding paragraphs, the marshal should submit the matter to the court for instructions. (See 15 Comp., 408.)

ABSTRACTING AND REPORTING.

321. Earnings from individuals and corporations should be reported on the abstract of the voucher (Form 21) in which the earnings are shown. All the data contemplated by the form should be furnished.

322. Uncollected earnings, in addition to being shown on Amended Form 21, should be reported on Form 72, and the failure to make collection fully explained.

323. Collections made on account of earnings for prior quarters should be reported on Form 72, but only in the column entitled "Amount paid to clerk."

324. If there are no uncollected earnings and no collections on account of earnings of prior quarters, certificate to that effect, on Amended Form 72, should accompany the account.

325. Receipts from the clerk should be arranged in the order in which the cases are entered on the abstract and attached to the upper left-hand corner.

MISCELLANEOUS.

326. If it is necessary that an expense not provided for by section 829 R. S., U. S., be incurred in a case between private litigants, it should not be charged in the marshal's account, but should be paid directly by one or more of the parties to the suit, under an order or rule of court. (See 5 Comp., 871.)

327. In cases between private litigants, the expense of keeping personal property (par. 471 (b) and (o)), when payable to parties other than deputy marshals, should be paid directly (or through the marshal) by the parties to the action, but never from judiciary funds. Such items should not appear in the marshal's accounts. If, however, such services are rendered by the marshal or his deputies, the

amount payable by the litigants therefor should appear in the marshal's accounts, be collected by him, and paid to the clerk of the court. (See 6 Comp., §27.)

328. Services by a marshal in taking charge, under appointment by the court, of the property of bankrupts are covered by his salary. If the court should tax against the bankrupt's estate compensation for the marshal's services, and the money is paid to the marshal, it is his duty to turn it over to the clerk of the court as an earning. (See Comp. to Marshal Long, western Kentucky, May 3, 1907, and 30 Stat. L., 545.)

PAYMENT OF JUDICIAL AND OTHER SALARIES.

GENERAL INSTRUCTIONS.

329. The following salaries are payable monthly by marshals in accordance with notices from the appointment clerk of the Department of Justice, excepting as to deputy marshals, when notice of the approval of the appointment is sufficient, and as to stenographers, and messengers to judges, and court reporters, when payment should be made upon authorization by the Attorney General.

Officials and clerks.	Appropriations.
District Judges.....	Salaries, District Judges.
Circuit judges and clerks of circuit courts of appeals..	Salaries, Circuit Courts.
District attorneys, their clerks and messengers.....	Salaries and Expenses of District Attorneys, United States Courts.
Regular assistant district attorneys.....	Pay of Regular Assistant Attorneys, United States Courts.
Marshals and their salaried deputies.....	Salaries, Fees, and Expenses of Marshals, United States Courts.
Stenographers to judges, messengers to judges, and court reporters.	Miscellaneous Expenses, United States Courts.

NOTE.—Salaries, as well as expenses of *special* assistant attorneys, and special assistants to the Attorney General, are payable *only* by the disbursing clerk of the Department of Justice.

VOUCHERS AND ABSTRACTS.

330. Form 767 should be used for the payment of salaries of presidential appointees. These vouchers should be prepared and certified to by the marshal.

331. Form 746 should be used for the payment of all other salaries above mentioned. The first certificate on this form should be signed by the payee, and the second by the officer under whom the payee serves.

332. Vouchers of clerks of circuit courts of appeals should be certified by the senior circuit judge.

333. Salary vouchers (excepting under "Miscellaneous Expenses, U. S. Courts," as to which see pars. 584 to 587) should be abstracted alphabetically, and separately under each appropriation, on Form 125. The abstracts should be prepared in triplicate, the original and

triplicate to be transmitted to the department with the quarterly accounts.

334. These payments should be carried directly from Form 125 to the general abstract, Amended Form 15, and the account current, excepting that such payments under the appropriation "Salaries, Fees, and Expenses of Marshals" should be carried from Form 125 to Amended Form 22, and added as a separate item to the total amount otherwise shown on said form at the foot of column 5, entitled "Total paid by United States marshal."

335. Salary payments under "Salaries and Expenses of District Attorneys" should be abstracted on Form 125, as above stated, as a continuation of items of expenses also, abstracted under this appropriation. They should, however, be separately grouped on the abstract. (See par. 592.)

COMPUTING AND WITHHOLDING SALARIES.

336. In computing amounts payable on account of salaries, the book entitled "Government Salary Tables" should be utilized. A copy of this book may be obtained upon application to the Secretary of the Treasury.

337. Whenever the services of an incumbent of a given position are terminated, and payment of salary is about to be made, it should be remembered that the incoming and outgoing official or employee may not both be paid for the same day.

338. In the computation of salaries (whether yearly or monthly) the following rules should be observed:

(a) Each calendar month shall consist of 30 days, and the computation of salary shall be by each month separately, one-twelfth of an annual salary constituting the compensation for each month.

(b) One-thirtieth of a monthly installment of salary is to be allowed for each day of service from the 1st to the 30th, inclusive. The last day of February counts as three days of service for pay purposes (two days in leap years).

(c) The 31st day of a month enters into the computation of salary only where there is *one day's* absence in a nonpay status on that day—that is, absence in a nonpay status did not occur also on the 30th. For such absence on the 31st one day's pay is forfeited. (See 20 Comp., 772 and 867; also Treasury Circular No. 35, Aug. 18, 1914.)

339. Before final payment of salary is made to an outgoing official or employee having in custody Government property, a certificate should be obtained from the Department of Justice showing that said official or employee has satisfactorily accounted for all such property.

340. When any officer of a Territory is absent therefrom and from the duties of his office, no salary shall be paid him during the year in which such absence occurs unless good cause therefor be shown to the President, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office. (See sec. 1884, R. S. U. S.)

341. The vouchers of Territorial officers should be accompanied in every instance by a certificate in substantially the following form:

I,, of the Territory of, do hereby certify that I have not been absent from said Territory and from the duties of my office during the month of, 19..., without leave from the Department of Justice.

342. No money should be paid as salary to any person appointed during the recess of the Senate to fill a vacancy in any existing office if the vacancy existed while the Senate was in session, and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate. (See sec. 1761, R. S. U. S.)

343. If doubt should arise as to the propriety of payment of salary to a recess appointee or otherwise, payment should be withheld until special instructions have been obtained from the Department of Justice.

344. In determining the amount due for salaries of retiring deputies it should be understood that the term of a deputy expires with that of his principal, except for the purposes named in sections 789 and 790, Revised Statutes. It should also be understood that a deputy is not entitled to compensation for services rendered in behalf of the successor of the marshal who appointed him unless he has been appointed and qualified as a deputy of the new marshal. (See 17 Comp., 362).

345. Where a marshal was removed from office, and the removal was "to take effect immediately," he is not entitled to compensation after the receipt by him of notice thereof. (See 11 Comp., 452.)

OFFICE EXPENSES.

346. The law provides that office expenses of marshals and attorneys may be allowed when authorized by the Attorney General. Stationery, blank forms, and other miscellaneous supplies for office use are furnished upon requisition, by the Division of Supplies, Department of Justice. (See pars. 14 to 21.) Expenses for telegrams and long-distance telephone messages sent in accordance with regulations under these headings (see pars. 5 to 12) are hereby authorized generally. Specific authority must be procured for other office expenses. (See act of May 28, 1896, sec. 14.)

347. Applications for authority to incur office expenses should be made in quintuplicate on Form 25-B. Two of the five copies will be returned and the other three retained for departmental records.

348. Such applications should state clearly the estimated total expense, its nature, and purpose. They should be accompanied by competitive bids or by explanations showing why it is impracticable to procure such bids.

EXTRAORDINARY EXPENSES.

349. Section 846, Revised Statutes, provides that where the ministerial officers of the United States have or shall incur extraordinary expense in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States may allow the payment thereof, under the special taxation of the court.

350. Should there be unusual difficulty attending the execution of process, anticipated or actual defiance of Federal authority, or other disturbance of an extraordinary character, the marshal should immediately communicate with the department, by wire if necessary, recommending as definitely as possible what action appears to be essential and requesting instructions.

351. Expenses should not be incurred in such matters without previous authorization unless the emergency will not admit of delay, in which event the action taken must be reported to the department at once.

352. Extraordinary expenses are payable from the appropriations out of which ordinary expenses of a similar character are payable. They should be included in a separate voucher or vouchers, accompanied by the usual affidavit and receipts.

353. Such items must be submitted to the court for special taxation under section 846, R. S. U. S. The order taxing the expenses should be separate from and in addition to the order approving the regular quarterly account, and should be in substantially the following form:

Whereas an account rendered by, United States marshal, under the appropriation and for the period from to, contains extraordinary expenses incurred in executing the laws of the United States (as fully set forth in the attached voucher), the payment of which is not specifically provided for by law;

The said expenses, amounting to dollars and cents, are hereby specially taxed under section 846, Revised Statutes.

354. A certified copy of the order should be attached to and transmitted with the vouchers.

**“SALARIES, FEES, AND EXPENSES OF MARSHALS,
U. S. COURTS.”****GENERAL INSTRUCTIONS.**

355. The following are payable from this appropriation:

- (a) Salaries of marshals and their salaried deputies.
- (b) Expenses of travel and subsistence of marshals and their salaried deputies.
- (c) Fees and expenses of fee deputies.
- (d) Marshals' office expenses, such as telegraph, telephone, etc.

(e) Per diems of special deputies; expenses of keeping property seized under mesne process, etc.

356. When an account contains charges in internal-revenue or Chinese-exclusion cases the certificate mentioned in paragraph 296 must be furnished.

357. Detailed instructions as to the preparation of vouchers under this appropriation and as to the fees and expenses allowable must follow under appropriate headings.

ABSTRACT OF VOUCHERS.

358. An abstract of the vouchers (other than those for salaries) should be made on Amended Form 22. The number of each voucher, the name of the marshal or deputy, and the footing of each column of Amended Form 21, should be carried to the proper place on Amended Form 22.

359. Vouchers for salaries of the marshal and his deputies should be alphabetically arranged and abstracted on Form 125. These abstracts should be prepared in triplicate, the original and triplicate being transmitted to the department with the original account, and the duplicate filed with the duplicate account.

360. The total amount of the payments on account of salaries should be carried from Form 125 to Amended Form 22, and added as a separate item to the total amount otherwise shown on said form, at the foot of the column entitled "total paid by marshal." Amended Form 22 will thus show the total disbursements under this appropriation.

FEES AND EXPENSES OF MARSHALS AND DEPUTIES.

[Payable from the appropriation "Salaries, fees, and expenses of marshals, U. S. courts."]

361. Instructions under this caption are in the following order:

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VOUCHERS.

GENERAL INSTRUCTIONS AS TO PREPARATION.

362. Vouchers should be prepared quarterly, in duplicate. The originals must form part of the original account.

363. The complete record of all services and expenses of the claimant during the quarter should be shown in a single voucher, even though payment in full can not be made. Credit should be claimed only for the portions paid. When final payment is made in a subsequent account, either by the marshal or his successor in office, reference should be made thereon to the record of service filed with the preceding account.

364. Each item should be dated and definitely stated. It should also appear whether it was on behalf of the United States, or otherwise. When supported by receipt, the number of the receipt should be given. Receipts should be numbered, arranged chronologically, and attached to the page to which they relate.

365. Items pertaining to only one case should be entered on a given page. When charges for services in the same case are made in different vouchers, or on different pages of the same voucher, cross reference must be made in every instance.

366. The pages should be arranged chronologically with respect to dates of service, and then numbered consecutively.

367. Each page should be separately footed and the totals carried to the proper columns of the abstract. This abstract should be placed before the first page, the affidavit should follow the last page, and the whole voucher should be securely fastened within the covers provided for that purpose.

368. Vouchers of marshals and salaried deputies should show constructive fees entered as they would have been charged if the services had been performed by a fee deputy.

369. When mileage is less than the expense of a trip, it should not be carried into the footing of fees. In all cases, however, the number of miles traveled should be shown.

GENERAL INSTRUCTIONS AS TO CHARGES, SPECIAL NOTATIONS, AND PAYMENT.

370. Particular diligence should be exercised in avoiding erroneous payments under this appropriation. Vouchers should be carefully examined and payment withheld until they have been accurately and satisfactorily executed. Charges should be in accordance with the facts, as well as in accordance with law.

371. If the claimant is paid by several checks, a list of the checks specifying date, number, and amount of each should be shown.

372. If a writ is not served when the first trip is made to the vicinity of the place of service, the voucher should show why service was not made.

373. When a defendant is taken before a commissioner for hearing and he does not hear the case, a certificate should be obtained from him and attached to the voucher, explaining fully the circumstances.

374. Passes granting free transportation within State limits should not be used for official business.

ABSTRACTS OF VOUCHER.

375. An abstract of each voucher should be prepared on Form 21. The entries should follow the order in which the pages of the vouchers are arranged. These abstracts should show:

(a) In column 1, the gross fees earned by fee deputies in all classes of cases. If actual expenses are taken, mileage should not be included in this column.

(b) In column 2, the amount paid to the deputy on account of said fees.

(c) In column 3, expenses of travel and subsistence; also guard hire.

(d) In column 4, paid items other than the foregoing.

(e) In column 5, the totals of columns 2, 3, and 4.

(f) In column 6, all service fees, together with mileage, if the latter equals or exceeds the expenses of the trip; otherwise all service fees, together with actual expenses. (The question of the amount *paid* is not involved in this data. It is for statistical purposes only.)

(g) In columns 7, 8, and 9, earnings from individuals and corporations for each case separately, with collections and payments to the clerk of the court on account thereof.

AFFIDAVIT.

376 Form 20 should be used for the affidavit of a fee deputy, and Form 69 for a marshal or salaried deputy. The amount stated in the affidavit of a fee deputy should cover the total fees and expenses.

377. It may be executed before any one authorized to administer oaths generally, or as provided by the acts of February 21, 1911 (see 36 Stat. L., 927), and August 24, 1912 (see 37 Stat. L., 487). If executed before a notary public or other officer having a seal (except a clerk or deputy clerk of a United States court), he should affix his seal. A notary public should also state when his commission will expire. (See par. 13.)

378. Reimbursement for the expense, if any, of executing affidavits to such vouchers is not chargeable against the United States. (See 3 Comp., 430, 21 Comp., 791, and 22 Comp., 1.)

379. If the affidavit of a fee deputy can not be executed because of his death, the marshal may certify to the voucher and make payment to his legal representative. (See 3 Comp., 451.) In such instances instructions should be obtained from the department before payment.

RECEIPTS.

380. Receipts should be taken for the following items whether services were rendered in behalf of the United States or otherwise:

(a) Lodging and subsistence of marshal or deputy (other than single meals).

(b) Lodging and subsistence of prisoners and guards.

(c) For hire of horses or vehicles; stage fare, and for feed of horses.

(d) For guard hire.

(e) For parlor car or sleeper (i. e., regular Pullman slips).

(f) For the bodies of persons, from the marshal for the district to which they are transported (to be attached to the page of the account to which they relate).

381. Receipts for expenses should be taken in duplicate, on Form 13, one marked original and the other duplicate. The original receipts must accompany the original vouchers. For hotel expenses they should be procured from the clerk, prepared on the ordinary bill heads. They should be prepared with ink or indelible pencil; should show the exact nature of the expense; for whom it was incurred; and if for meals and lodging, the first and last meal. They must of course be signed by the person to whom payment is made. If signature is by cross mark, it must be attested by some person other than the marshal or deputy.

GUARDS.

GENERAL INSTRUCTIONS.

382. The determination of the necessity for guards must ordinarily be left to the discretion of the marshal, who is responsible for the exercise of an economical and business-like control of this matter. Each voucher covering guard hire should show under the heading "Remarks" why the guard was deemed necessary.

383. Trainmen, drivers of vehicles, etc., while on duty as such should not be employed as guards.

TRAVELING GUARDS.

384. Traveling guards are compensated as follows:

(a) If employed by the marshal, a salaried deputy, or a fee deputy, on a trip *for which actual expenses are charged in lieu of mileage*; not exceeding \$2 per day, chargeable directly against the United States; also subsistence and lodging expenses actually paid by the marshal or deputy, not to exceed \$3 per day: Provided, that meals for less than one day should not average over \$1 each.

(b) If employed by a fee deputy, on a trip *for which mileage is charged*, the only compensation chargeable against the United States is 10 cents per mile, allowable to the deputy for each necessary guard; hence the deputy must personally compensate such guards, covering both their services and expenses.

STATIONARY GUARDS.

385. If stationary guards are necessary at a place where there is no jail, they may be employed and paid not exceeding \$2 per day, chargeable against the United States. If, however, the service is continuous, it is permissible to pay a day, and also a night, guard.

FORMS.

386. The following forms should be used for vouchering compensation paid to guards:

(a) If employed by a fee deputy, as traveling guard when mileage is charged, 11.

(b) If employed as traveling guard when actual expenses are charged, 30.

(c) If employed for service in transporting prisoners to another district, 30.

(d) If employed for stationary service, 12.

FEEDING PRISONERS IN MARSHAL'S CUSTODY.

387. The actual necessary expenses of feeding prisoners, not to exceed \$3 per day, while being transported in the custody of a marshal or deputy should be paid by him: Provided, that meals for less than one day should not average over \$1 each.

388. Prior to placing the prisoner in jail the appropriation "Salaries, fees, and expenses of marshals" is applicable for feeding prisoners, as above stated. After commitment, and also while temporarily in jail, the appropriation "Support of Prisoners, U. S. Courts," is applicable. (See 4 Comp., 525.)

389. If it is necessary for a deputy to temporarily place his prisoner in jail, and the jailor demands immediate payment, it may be made by the deputy and included in his voucher under "Salaries, Fees, and Expenses of Marshals, U. S. Courts"; unless the department has a contract with said jailor for the keep of prisoners. (See 13 Comp., 556.)

KEEPING PERSONAL PROPERTY—COMPENSATION AND EXPENSES.

390. Such compensation as the court, on petition setting forth the facts under oath, may allow, is payable for the keeping of personal property attached on mesne process. (See par. 471*b*.)

391. A copy of the petition and order of court must accompany vouchers for such payment.

392. In cases to which the United States is not a party moneys payable to persons *other than the marshal or his deputies* for keeping property attached under mesne process should be collected from the litigants and paid directly to the respective claimants. Such items should not appear in any manner in the marshal's accounts, nor be paid to the clerk of the court. (See 6 Comp., 827.)

393. A fee deputy is entitled to compensation allowed by the court under section 829, R. S. U. S., for his services in keeping personal property attached on mesne process; but not to his expenses in earning such compensation. (See 4 Comp., 646.)

394. Marshals are not authorized to reimburse fee deputies for expenses of caring for and preserving property seized under a writ of replevin. (See Comp. to Cooper, E. Ark., May 26, 1898.)

395. Expenses incident to keeping, advertising, etc., property seized for violations of the pure-food law are payable from the proceeds of the sale. If the amount realized is less than such expenses the balance only (and in the event no sale is ordered the entire amount) is payable from the proper judiciary appropriations upon the order of the court and the authority of the Attorney General.

396. The appropriation "Salaries, Fees, and Expenses of Marshals" is applicable to expenses of a marshal in guarding property seized under the internal revenue laws, and delivered to him under the provision of section 3458, R. S. U. S., when such expenses have been taxed by the court. (See 13 Comp., 315.)

397. Expenses of a collector of internal revenue incurred in seizing property prior to the issuance of process and before it was turned over to the marshal are not chargeable against any judiciary appropriation, even when taxed as costs and paid to the clerk of the court. (See 15 Comp., 782.)

EXPENSES OF TRAVEL AND SUBSISTENCE OF MARSHALS AND SALARIED DEPUTIES.

GENERAL INSTRUCTIONS.

398. For vouchering expenses of travel and subsistence of the marshal or a salaried deputy, the following forms should be used:

- (a) For service of criminal process, Form 194.
- (b) For service of civil process, Form 25.

NOTE.—Mileage in civil cases is governed by Sec. 829, R. S. U. S., and not by State laws. Show number of miles traveled in *every instance*.

(c) In transacting official business away from headquarters, other than the service of process, Form 192.

399. Expenses must be itemized and supported by receipts, when required. (Pars. 380 and 381.)

400. The object of each trip should be indicated. Unusual delay at any point, or travel by an indirect or unusual route, must be explained.

SUBSISTENCE ITEMS.

401. Expenses of lodging and subsistence are limited by law to \$4 per day for marshals, and \$3 per day for salaried deputies. Each day must be separately considered. Charges for several days may not be averaged. (See 4 Comp., 418.)

402. The daily expense begins with breakfast and ends with lodging. (See 7 Comp., 338.) The cost of each meal must be separately shown. Charges for meals at official headquarters are not ordinarily allowable. (See 17 Comp., 276.)

403. Fees to waiters, not exceeding 45 cents per day (when not prohibited by State law), and when there is continuous absence from headquarters for six days or more, laundry, at not exceeding the rate of \$6 per month, will be allowed as part of and within the maximum per diem for subsistence.

TRAVEL ITEMS.

404. Marshals and salaried deputies, in addition to expenses of lodging and subsistence, are entitled to actual traveling expenses, as provided by law. (See 29 Stat. L., 183, and 35 Stat. L., 640.)

405. Charges for hire of vehicles, which will be allowed only when the necessity therefor is clearly shown, should specify when and between what points they were used, as well as the distance traveled. Street cars or public-service vehicles should be used whenever practicable.

406. The points between which travel is made on railroads must be shown. Round trip tickets should be used whenever practicable and economical.

407. The cost of a berth in a sleeping-car is held to be a traveling expense and not an expense for lodging. (See 3 Comp., 386.)

408. Marshals and deputies are *not* entitled to reimbursement for expenses as follows:

(a) Incident to delay upon private business.

(b) For travel to serve a writ issued from a court in another district if the writ does not run out of the district in which issued. (See 4 Comp., 642.)

(c) For payments made to his wife at a fixed rate for subsistence at his home, in a place other than official headquarters. (See 21 Comp., 518.)

(d) Traveling to make personal service of a venire on a person who resides elsewhere than at the place where the court is to be held. (See 19 Comp., 339.)

(e) For use of his own means of conveyance. (See 21 Comp., 219.)

(f) Incident to transporting or recapturing a prisoner whose escape is due to negligence. (See 15 Comp., 507.)

409. Marshals and deputies *are* entitled to reimbursement of expenses as follows:

(a) Incident to accompanying a jury of view (within the usual limitations). (See pars. 38 to 40.)

(b) Necessary portorage (when not prohibited by State law) on sleeping cars, not exceeding 25 cents per day, or parlor cars not exceeding 15 cents per day, for the marshal, each deputy, each prisoner, and each guard.

(c) While accompanying revenue officers in raiding illicit distilleries up to the time of making arrests, subject to the limitation of \$5 per day, provided they are engaged on internal-revenue business exclusively, such compensation being payable from the appropriation made for the Internal-Revenue Service. (See T. D. 2167, Mar. 1, 1915.)

(d) Fees earned and expenses incurred in transporting without warrants offenders arrested in the act of operating illicit distilleries. (See 16 Comp., 669.)

(e) Where a room in a hotel is occupied jointly by a Government employee and his wife, only one-half of the hotel's charge for the room may be reimbursed such employee. (See 21 Comp., 599.)

(f) Actual reasonable cost of provisions carried for use on a trip if properly described in the voucher.

(g) Reasonable fees actually paid to expressmen and porters who handle baggage on arrival at and departure from hotels and stations will be allowed as expenses of travel, when not prohibited by State law.

410. A salaried deputy who takes a prisoner before other than the nearest commissioner is entitled only to expenses which would have been incurred had he been taken before the nearest one. (See 17 Comp., 949.)

TRANSPORTING CONVICTS.

(Chargeable under "Salaries, Fees, and Expenses of Marshals.")

411. The reasonable actual expense of transporting convicts to a prison outside of the district are ordinarily allowable. (See par. 471 (u); also 164 U. S., 82.)

412. Form 6 should be used in vouchering all such expenses.

413. If a marshal removes a prisoner adjudged insane before trial to the Government Hospital for the Insane, under instructions of the Attorney General, he is entitled to his actual expenses, with the usual limitations. (See 3 Comp., 151.)

414. If, by reason of negligence, a prisoner escapes, but is recaptured and committed, reimbursement may be made for the expense incurred in transporting, less that portion caused by the escape and recapture. (See 20 Comp., 159.)

415. The receipt of the prison authorities for the bodies of convicts delivered should be obtained and attached to the expense account.

416. If the time required to reach a point where prisoners are delivered is less than one day (24 hours), a stop-over of 12 hours will be allowed at the point of destination; if the time required is one day (24 hours) or more, a stop-over of 24 hours will be allowed.

FEEES AND EXPENSES OF FEE DEPUTIES.

GENERAL INSTRUCTIONS AS TO COMPENSATION.

417. Fee deputies are entitled to:

(a) The gross fees earned, including mileage, not to exceed \$1,500 per fiscal year, or at that rate for a portion of a fiscal year. (See 36 Stat. L., 1355.)

(b) Actual expenses endeavoring to arrest, not exceeding \$2 per day. (See par. 471 (v).)

(c) Actual expenses, if preferred, in lieu of mileage. (See 36 Stat. L., 1355.)

(d) Not to exceed \$5 per day as possemen or guides, inclusive of actual expenses, when accompanying revenue officers in raiding illicit distilleries. Such compensation, which ceases when the arrest is made, is payable from the appropriation for the Internal-Revenue Service. (See Treasury Circular 2167.)

418. Form 26 should be used for fees and expenses in the service of warrants of arrest and subpoenas, and in the transportation of prisoners within the district. Form 54 for the service of a *capias* or bench warrant.

419. If charges are made under a State fee bill (par. 471 (f)), the voucher should give definite statutory reference thereto.

MAXIMUM COMPENSATION AND ITS COMPUTATION.

420. If the fees earned amount to \$1,500 before the end of the fiscal year, fee deputies must nevertheless continue to serve during the whole year in order to be entitled to the entire maximum compensation. Actual expenses may be allowed in lieu of mileage after the maximum has been earned; also expenses, not exceeding \$2 per day, endeavoring to arrest. (See 3 Comp., 575.)

421. The earnings of a given quarter may be paid to cover a deficiency in another quarter of the same fiscal year. (See 3 Comp., 226.)

422. Fee deputies may be allowed such proportion of the maximum compensation as the number of days of service bears to the number of days in the year. (See 6 Comp., 778.)

423. If a marshal notifies a fee deputy of his predecessor that he will be retained, and later formally appoints him, the formal appointment may be considered as a confirmation of the prior actual appointment, and the deputy is entitled to have his maximum compensation computed accordingly. (See 13 Comp., 501.)

424. The sending of writs to a former fee deputy by a reappointed marshal for service is held to be equivalent to a reappointment of said deputy. (See 12 Comp., 766.)

MILEAGE.

GENERAL INSTRUCTIONS.

425. Mileage for travel to serve process and transport prisoners is prescribed by section 829, R. S. U. S. (par. 471 (w) and (t), respectively). Mileage in civil cases is governed by the section above mentioned and not by the State fee bill.

426. When a fee deputy serves several writs upon the same trip, he must elect to take mileage or actual expenses for the whole trip. He may not be allowed mileage in part and expenses in part. (See 1 Comp., 128; 6 Comp., 963.)

MILEAGE FOR TRANSPORTING DEFENDANTS FOR HEARING.

427. Defendants (excepting as stated in pars. 429, 433) must be taken before the nearest commissioner or the nearest judicial officer having jurisdiction; otherwise no mileage is allowable. (See 28 Stat. L., 416.)

NOTE. As a general rule, defendants should be taken before the *nearest commissioner* rather than before a State or county official.

428. The question as to which of two or more officers is nearest is one of fact for determination in each particular case. The nearest commissioner is held to be the one who is nearest by the most practical and usually traveled route. If, however, mileage is claimed for taking the prisoner to a commissioner who is not the nearest by geometrical measurement, the account must show that the officer before whom the defendant was taken was the nearest within the meaning of the act of August 18, 1894. (See 2 Comp., 354.)

429. If the nearest commissioner refuses to hear the case, or is known to be absent from his official headquarters, the deputy may proceed to the next nearest commissioner. (See Comp. to Marshal Griffith, Sept. 16, 1898.) In such cases, however, a certificate should be procured from said nearest commissioner, setting forth the facts. (See par. 373.)

430. If a defendant is arrested on a commissioner's warrant, based on indictment found in another district, he need not be taken before a commissioner (unless for the purpose of giving bond), but may be taken direct to the judge for a warrant of removal. (See Comp. Feb. 28, 1908, to marshal, Colorado.)

431. Persons arrested on writs of *capias* need not be taken before the nearest commissioner, but should be taken directly to court, if in session, unless the defendant desires to give bond for his appearance. (See Comp. Oct. 17, 1900, to marshal, western district Virginia.)

MILEAGE IN CHINESE DEPORTATION CASES.

432. The district attorney may designate the commissioner within his district before whom Chinese arrested for being unlawfully in the United States shall be taken for hearing. (See 31 Stat. L., 1093.)

433. If a commissioner other than the nearest one is so designated, the necessity therefor should be fully explained.

MISCELLANEOUS REGULATIONS GOVERNING MILEAGE.

434. Fee deputies are entitled to mileage:

(a) From the place where the service of process is actually entered upon, not greater, however, than from the place where it is actually received. (See 4 Comp., 561.)

(b) One mileage only, irrespective of the number of writs executed. (See 3 Comp., 239, and 13 Comp., 367.)

(c) For travel to serve writs demanding immediate action, although the defendants may have moved to a locality nearer to another deputy.

(d) For travel to collect money in satisfaction of writs of execution. (See 5 Comp., 220.)

(e) For transporting on a writ of commitment a prisoner who escapes, provided the prisoner is recaptured and the writ executed. (See 11 Comp., 117.)

(f) For 100 miles only, serving a subpoena in a civil case, when the witness lives in another district but not more than 100 miles from the place of holding court. (See 7 Comp., 812.)

435. Fee deputies are *not entitled* to mileage:

(a) For serving process for poor litigants when the fees are not collected. (See 8 Comp., 380.)

(b) For traveling without process to bring prisoners temporarily committed before a commissioner for final hearing. (See 16 Comp., 295.)

(c) For traveling upon unexecuted writs (see 3 Comp., 147) or for travel without cost.

(d) For clearly unnecessary travel. (See 8 Comp., 233.)

(e) For traveling without process merely to notify witnesses that they have been subpoenaed. (See 4 Comp., 369.)

(f) For traveling, under orders, to take a prisoner before other than the nearest commissioner. (See 12 Comp., 183, and 15 Comp., 142.)

(g) For transporting a prisoner arrested under the Chinese exclusion act to the commissioner who issued the warrant, there being a nearer officer authorized to hear the case. (See 2 Comp., 457.)

(h) For transporting a prisoner arrested at the instance of his surety during a session of court. (See 6 Comp., 449.)

(i) For transporting a prisoner who escapes through negligence before the writ of commitment is executed. (See 12 Comp., 435.)

(k) For transporting a prisoner who escapes without fault of the deputy prior to his production before the committing magistrate for hearing. (See 13 Comp., 316.)

(l) For traveling to attend a hearing before a commissioner. (See 7 Comp., 242, and 15 Comp., MS., 608.)

(m) For serving subpoenas in civil cases when the witness lives in another district and more than 100 miles from the place of holding court. (See 11 Comp., 634.)

ACTUAL EXPENSES IN LIEU OF MILEAGE.

436. A fee deputy may elect to take actual expenses on any trip in lieu of mileage. (See par. 471 (x).) He may not, however, receive expenses for a portion of a trip and mileage for another portion. Actual expenses are allowable to the place where service is made and return to the place where service was started or to his official station. (See 6 Comp., 926 and 963.)

437. A fee deputy who elects to take actual expenses in lieu of mileage transporting prisoners committed to jail by a commissioner is entitled to such expenses for himself, prisoners, and necessary guards, including the per diem compensation for guard service. (See 7 Comp., MS., 464.)

438. A fee deputy may be allowed actual expenses but not mileage for traveling with a writ of commitment to get possession of a prisoner. (See 11 Comp., 248.)

EXPENSES ENDEAVORING TO ARREST.

439. Fee deputies (whether employed in single or double fee districts, and whether the endeavor is or is not successful) are entitled to actual necessary expenses not to exceed \$2 per day incurred in endeavoring to arrest under process persons charged with or convicted of crime. (See par. 471 (*v*).) If the endeavor is not successful, the voucher should show specifically what efforts were made, the points between which travel was made, and the distance traveled each day.

440. Expenses for consecutive days for a given trip may be averaged. (See 16 Comp., 487.) They are allowable only prior to arrest, and only when process is in hand. (See 3 Comp., 665.)

441. Such expenses may be allowed for endeavoring to execute an attachment on a defaulting witness for contempt of court. (See 13 Comp., 359.)

442. Expenses of a deputy endeavoring to arrest are allowable in connection with the execution of search warrants. (See Comp. to Auditor, Feb. 1, 1916.)

SERVICE FEES.**GENERAL AND MISCELLANEOUS.**

443. Fees are allowable to fee deputies for serving the process of poor litigants only if collection is made from the litigants. (See 8 Comp., 380.)

444. Fees for serving a petition in bankruptcy are not allowable. (See 21 Comp., 439.)

445. Only fees specifically provided by law for the particular service rendered are allowable for services in behalf of parties to suits. (See 3 Comp., 733.)

WARRANTS AND OTHER LIKE WRITS.

446. Fees for the service of warrants, writs of possession, etc., are prescribed by section 829, R. S. U. S. (See par. 471 (*a*) and (*f*).)

447. If two or more warrants issued for the arrest of a person charged with two or more offenses are delivered to the marshal for service, fees are allowable for serving each of them. (See 3 Comp., 261.)

448. In vouchering charges for serving a *capias* or bench warrant, it must be shown whether defendant was on bail, and if so whether the recognizance was forfeited, the defendant in default, or the warrant issued upon the order of the court. (See 24 Stat. L., p. 541.)

449. Service fees *are allowable* as follows:

(*a*) When the commissioner did not have jurisdiction, provided the warrant with the complaint or affidavit attached did not show on its face such lack of authority. (See 5 Comp., 299.)

- (b) For warrants of removal. (See 16 Comp., 386.)
- (c) For capias specially ordered by the court to issue when the defendant is on bond. (See Comptroller to Marshal, western district of Virginia, Jan. 5, 1900.)
- (d) When the defendant is on bond for another offense. (See 8 Comp., 197.)
- (e) For lawful search warrants. (See Comp. to Attorney General, Jan. 11, 1916, and to Auditor, Feb. 1, 1916.)
- (f) For writs of attachment issued by the court in another district for defaulting witnesses. (See 3 Comp., 246.)
- (g) For writs of habeas corpus ad testificandum, anywhere in the United States. (See 6 Comp., 926.)
- (h) For commissioner's mandate under section 1042 R. S. U. S. (See 3 Comp., 161 and 15 Comp., 142.)

450. Service fees *are not allowable* as follows:

- (a) When the writ shows on its face that it was illegally issued. (See 6 Comp., 213.)
- (b) For serving orders to bring prisoners in custody into court or for remanding prisoners from the court into custody. (See 15 Comp., 641.)
- (c) For commissioner's warrants in internal revenue cases issued upon complaints of private citizens not first approved in writing by the district attorney. (See 4 Comp., 448 and 672.)
- (d) For attachments issued by commissioners for defaulting witnesses. (See 7 Comp., 389.)
- (e) For scire facias issued in another district. (See 3 Comp., 526, and 9 Comp., 331.)
- (f) For publishing notices to claimants in proceedings in rem brought by the United States for the seizure of goods under the customs laws. (See 13 Comp., 170.)
- (g) For serving warrants in which there is not a sufficient description by name or otherwise of the person to be arrested to enable identification, i. e., simple John Doe warrants. (See 16 Comp., 891.)

FOR ATTENDANCE BEFORE COMMISSIONERS.

451. Fees for attending examinations before commissioners are prescribed by section 829, R. S. U. S. (See par. 471 (c).)

452. Usually only one deputy is necessary; if two are in attendance the necessity should be shown. If the hearing is held at the headquarters of the marshal or a salaried deputy, and the attendance of more than one officer is necessary, the marshal or a salaried deputy should attend.

453. If a deputy attends before *different* commissioners on the same day, one per diem is allowable for attendance before each commissioner. Only one per diem, however, is allowable for attendance before the *same* commissioner in different cases on the same day. (See 14 Comp., 66.)

454. Per diems of more than two deputies in the same case on the same day are not allowable. (See par. 471, (c).)

455. A fee deputy is entitled to a per diem for attending before a commissioner in the absence of the defendant upon continuance of an examination (see 5 Comp., 250) and when a prisoner arrested on capias is released on bond. (See 5 Comp., 252.)

456. A per diem is not allowable for attending before a district judge unless he is sitting as a committing magistrate. (See 13 Comp., 359.)

SUBPŒNAS, VENIRES, ETC.

457. Fees for service of subpœnas and venires are prescribed by section 829, R. S. U. S. (See par. 471 (*e*) and (*c*).) Form 55 should be used for service charges on court subpœnas, and Form 34 for venires.

458. Only one subpœna should be issued and served for a witness needed in two or more cases at the same term of court. (Sec. 877, R. S. U. S.)

459. The total amount of the fees, including mileage for serving venires, for a given term of court may not exceed \$50. This limit applies to double as well as single fee districts. Actual expenses in lieu of mileage are not considered in computing the total amount of the service fees.

460. Fees *are allowable* for serving subpœnas in the following instances:

(*a*) When issued by the court for witnesses to appear before commissioners. (See 9 Comp., 86.)

(*b*) For witnesses in antitrust cases whether residing within or without the district. (See 1st Supp. R. S., 763.)

461. Fees *are not allowable* for serving subpœnas as follows:

(*a*) By deputy upon himself.

(*b*) Issued by a commissioner for witnesses residing outside of his district. (See 8 Comp., 276.)

(*c*) When not delivered or read to the witnesses. (See 9 Comp., 86.)

(*d*) By mail, excepting in civil cases other than equity and admiralty when authorized by State law. (See 5 Comp., 210.)

COMMITTING AND DISCHARGING PRISONERS.

462. Fees for committing and discharging prisoners are prescribed by section 829, R. S. U. S. (See par. 471 (*s*).)

463. A fee deputy is not entitled to fees for—

(*a*) Committing prisoner without a duly issued writ. (See 2 Comp., 655.)

(*b*) Discharging a prisoner not actually in his custody.

(*c*) Serving a second final commitment issued by a commissioner. (See 19 Comp., MS., 544.)

(*d*) Delivering a prisoner to the custody of a marshal.

(*e*) Discharging a prisoner who has been bonded to appear before a commissioner. (See 2 Comp., 550 and 603.)

464. A defendant who gives bond for his appearance for a hearing before a commissioner comes again into the custody of the marshal upon being held for court, and the fee for discharging him upon bail is allowable. (See 2 Comp., 550.)

FEES AND EXPENSES IN ADMIRALTY CASES.

465. Fees and expenses in admiralty cases are prescribed by section 829, R. S. U. S. (See par. 471 (*f*) and (*m*) to (*q*).)

466. The fees to which a fee deputy is entitled in admiralty cases (other than those prescribed by section 829, R. S. U. S.) are those provided for by the State practice in such cases. (See Comp. to Marshal of New Jersey, Sept. 25, 1915.)

467. Section 829, R. S. U. S. (par. 471 (*o*)), limits the hire of keepers to \$2.50 for each day of twenty-four hours. (See 1 Comp., 309.) Further instructions concerning the expenses of keeping personal property will be found in paragraphs 390 to 397.

468. Where a rule or practice of the court in admiralty cases requires the issuing of a writ for the release of an attached vessel, a fee deputy is entitled to the usual fee for serving such writ. (See 4 Comp., 369.)

469. A bill of sale of a vessel is a deed within the meaning of the provision in section 829, R. S. U. S., which fixes a fee of \$5 "for drawing and executing a deed." (See 5 Comp., 759.)

470. A marshal is not authorized to pay the costs in pauper cases for publishing a monition in a suit in admiralty against a vessel or of keeping the vessel while in his custody. (See 7 Comp., 203, and 36 Stat. L., 866.)

FEE BILL.

471. Section 829, Revised Statutes:

(*a*) For service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons or subpoena for a witness, two dollars for each person on whom service is made.

(*b*) For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

(*c*) For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each.

(*d*) For holding a court of inquiry or other proceedings before a jury, including the summoning of a jury, five dollars.

(*e*) For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.

(*f*) For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set-off, or otherwise according to law receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered.

(*g*) For each bail bond, fifty cents.

(*h*) For summoning appraisers, fifty cents each.

(*j*) For executing a deed prepared by a party or his attorney, one dollar.

(*k*) For drawing and executing a deed, five dollars.

(*l*) For copies of writs or papers furnished at the request of any party, ten cents a folio.

- (m) For every proclamation in admiralty, thirty cents.
- (n) For serving an attachment in rem or a libel in admiralty, two dollars.
- (o) For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day.
- (p) When the debt or claim in admiralty is settled by the parties without a sale of the property, the marshal shall be entitled to a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: *Provided*, That, when the value of the property is less than the claim, such commission shall be allowed only on the appraised value thereof.
- (q) For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-quarter per centum on the excess of any sum over five hundred dollars.
- (r) For expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars a day, in addition to his compensation for service and travel.
- (s) For every commitment or discharge of a prisoner, fifty cents.
- (t) For transporting criminals, ten cents a mile for himself and for each prisoner and necessary guard; except in the case provided for in the next paragraph.
- (u) For transporting criminals convicted of a crime in any district or Territory where there is no penitentiary available for the confinement of convicts of the United States, to a prison in another district or Territory designated by the Attorney General the reasonable actual expense of transportation of the criminals, the marshal, and the guards, and the necessary subsistence and hire.
- (v) For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy not exceeding two, necessarily attending, two dollars a day.
- (w) For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service, or, when more than one person is served therewith, to the place of service which is most remote, adding thereto the extra travel which is necessary to serve it on the others. But when more than two writs of any kind required to be served in behalf of the same party on the same person might be served at the same time, the marshal shall be entitled to compensation for travel on only two of such writs; and to save unnecessary expense, it shall be the duty of the clerk to insert the names of as many witnesses in a cause in such subpoena as convenience in serving the same will permit.
- (x) In all cases where mileage is allowed to the marshal he may elect to receive the same or his actual traveling expenses, to be proved on his oath, to the satisfaction of the court.

NOTE.—In Arizona, Idaho, Nevada, New Mexico, North Dakota, and Wyoming fee deputies are entitled to only regular single fees, although double fees are collectible from individuals and corporations.

FEES OF JURORS.

GENERAL INSTRUCTIONS.

472. In cases where the United States is a party, it is the duty of the marshal, on the order of the court, to pay the jurors. (See sec. 855, R. S. U. S.)

473. Notwithstanding the provisions of section 846, R. S. U. S., the ordinary diligence of a careful disbursing officer should be fully

exercised in the matter of the payment of jurors. Orders to pay should be examined closely and if errors are discovered efforts should be made to secure correction of the order, through the district attorney, before payment.

474. Jurors in condemnation proceedings should be paid the usual fees from the appropriation "Fees of Jurors, United States Courts," unless by the practice in the State court special compensation is provided, in which event such special compensation is payable, upon authorization, from the appropriation "Miscellaneous Expenses, United States Courts." (See 2 Comp., 377.)

PER DIEMS.

475. Jurors are entitled to \$3 for each day in actual attendance and for the time necessarily occupied in travel to attend and in returning home. (See 32 Stat. L., 396.)

476. Jurors residing at the place where they attend are not entitled to per diems for days on which court is not in session and no service is rendered.

477. A person twice impaneled as a juror on the same day is entitled to only one per diem. (See 11 Comp., 335.)

MILEAGE.

478. Jurors are entitled to five cents per mile for the distance necessarily traveled in going to court and returning home by the shortest practicable route, *excepting as follows*:

479. In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Washington, and Wyoming they are entitled to 15 cents for each mile necessarily traveled over any stage line or by private conveyance, and five cents for each mile over any railway, provided that no double mileage shall be allowed by reason of any person being summoned both as a witness and juror. (See sec. 852, R. S. U. S. and 35 Stat. L., 377.)

480. Mileage is payable for the number of miles necessarily traveled going to attend and returning home at five cents per mile, not for going or returning only at ten cents per mile. Mileage should be verified. For this purpose authority will be given, upon application, for the purchase of maps from the Post Office Department.

VOUCHERS, ABSTRACTS, AND ANALYSES.

481. Form 1 should be used for the payment of jurors, except when they are allowed 15 cents a mile for travel by stage or private conveyance, when Form 29 should be used.

482. It is not necessary to forward with the vouchers copies of orders to pay jurors, the certificate of the clerk being evidence that such orders were entered.

483. The residence of each juror should be shown in the voucher by stating the county and post office. If the juror does not reside at a post office, state the county and the distance and direction from the nearest post office.

484. Signature by cross mark must be attested by some person other than the marshal or his deputy.

485. The vouchers for each term of court should be arranged alphabetically, similar to names in a directory, and placed in a separate group. These groups should be brought together and the entire set of vouchers for the whole quarter numbered consecutively. They should be fastened together at the upper left-hand corner.

486. Vouchers for each term of court should be abstracted on Form 740. Each page should be footed and the total carried forward. Care should be taken to have the certificate of the clerk on the last sheet of this form. The gross amount of each completed abstract on Form 740 should be carried to Form 125, and the total of Form 125, representing the disbursements of the entire quarter, should be carried to the general abstract.

487. An analysis of disbursements must also be prepared upon the form provided. If there are no disbursements the analysis should, nevertheless, be forwarded with a notation thereon, accordingly. Separate analyses should be made for supplemental items *only when such items pertain to different fiscal years*. All columns on the form should be properly footed and the totals carried forward throughout.

FEES OF WITNESSES.

GENERAL INSTRUCTIONS.

488. Paragraph 473, relative to the exercise of diligence in effecting the accurate payment of jurors, notwithstanding possible erroneous orders, is applicable also to witnesses.

489. Witnesses ordinarily receive per diems and mileage, but salaried employees of the Government are entitled only to actual expenses. In certain cases such employees are paid by the marshal, and in others by their own departments. There are special provisions relative to seamen, detained witnesses, and others. Details concerning these matters follow under appropriate headings.

PER DIEMS AND MILEAGE.

490. Witnesses (other than convicts, seamen, and salaried employees of the Government) are entitled to \$1.50 for each day's attendance, and 5 cents per mile for the distance necessarily traveled in going to testify and returning home by the shortest practicable route, *excepting as follows*:

491. In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming witnesses *other than those attending before commissioners*, are entitled to \$3 per day, both for attendance and for the time consumed in traveling to attend and returning home. Also 15 cents for each mile necessarily traveled over any stage line, or by private conveyance, and 5 cents for each mile by railway or steamship. (See sec. 848 R. S. U. S.; 35 Stat. L., 377; 2 Comp., 66.)

492. Constructive or double mileage, by reason of having been summoned as both a witness and juror, or as a witness in two or more cases pending in the same court and triable at the same time, is not allowable. (See 35 Stat. L., 377.)

493. When a witness is subpoenaed in more than one cause between the same parties, at the same court, only one travel fee and one per diem compensation shall be allowed for attendance. Both shall be taxed in the case first disposed of, after which the per diem attendance fee alone shall be taxed in the other cases in the order in which they are disposed of. (See sec. 848, R. S. U. S.)

494. Witnesses who reside at the place where they attend should not be paid for days on which court is not in session, and no service is rendered.

495. Officers of the United States courts should not be paid witness fees in a matter wherein they may be officiating. (See sec. 849, R. S. U. S.)

496. Paragraph 480, relative to the computation and verification of mileage for jurors, is applicable also to witnesses.

497. Officers who are compensated by *fees* are entitled to the ordinary per diems and mileage of witnesses.

ACTUAL EXPENSE WITNESSES.

498. Officers and employees of the United States are entitled only to actual and necessary expenses, stated in items and sworn to, incurred in going, returning, and attending on the court as witnesses. (See sec. 850, R. S. U. S.) Charges for subsistence are limited to a maximum of \$5 per day. (See 38 Stat., 318, and Comp. to Atty. Gen., Mar. 24, 1916.)

499. Such actual expenses, however, are not payable by the marshal from the appropriation "Fees of Witnesses" if it was the official duty of the officer, employee, or agent to investigate the facts upon which the proceedings are based and to appear in his official capacity to testify as to the facts so acquired, unless there is no appropriation controlled by the department under whom the officer or employee serves, applicable to the payment of his expenses. (See 16 Comp., 411.)

500. The above rule is *not* applicable —

(a) To the attendance of employees of the Secret Service, who are payable in all cases by the marshal from the appropriation "Fees of Witnesses, U. S. Courts." (See 38 Stat. L., 836.)

(b) To the attendance of collectors and deputy collectors of internal revenue, surveyors, clerks, messengers, and janitors in internal revenue offices, who are also payable by the marshal from the appropriation "Fees of Witnesses, U. S. Courts," *provided they are regularly subpoenaed.* (See 38 Stat. L., 1017.)

501. Treasury Department Circular 1363 requires deputy collectors to serve without subpoena up to the time the defendants are held or bound over for trial. If the services of a deputy collector are required as a witness after a prima facie case has been made, he is required to respond, as a rule, only to a subpoena.

502. Items in accounts of actual expenses of employees of the Post Office Department and keepers of life-saving stations, serving as witnesses, for money paid to substitutes, should not be paid by marshals. (See 30 Stat. L., 441 and 16 Comp., 630.)

503. United States soldiers attending as witnesses should, before payment is made, be required to produce their travel order, or leave of absence, in order that it may be determined whether transportation was furnished by the War Department.

504. Employees whose salaries are payable from the appropriation for the suppression of the liquor traffic among the Indians, may be paid actual expenses for services as witnesses, under section 850, R. S., U. S., it being no part of their official duty to aid in the conduct of such prosecutions. (See Dept. Circular 104, Oct. 1, 1914.)

SPECIAL PROVISIONS AS TO SEAMEN AND OTHERS.

505. There shall be paid to each seaman or other person who is sent to the United States from any foreign port, station, sea, or ocean, by any United States minister, charge d'affaires, consul, captain, or commander, to give testimony in any criminal case, such compensation, exclusive of subsistence and transportation, as the court may adjudge to be proper, not exceeding \$1 for each day necessarily employed in such voyage, and in arriving at the place of examination or trial. In fixing such compensation, the court shall take into consideration the condition of said seaman or witness, and whether his voyage has been broken up, to his injury, by his being sent to the United States. (See sec. 851, R. S. U. S.)

506. When such seaman or person is transported in an armed vessel of the United States, no charge for subsistence or transportation shall be allowed. When he is transported in any other vessel, the compensation for his transportation and subsistence, not exceeding in any case 50 cents a day, may be fixed by the court, and shall be paid to the captain of said vessel accordingly. (See sec. 851 R. S. U. S.)

WITNESSES BEFORE COMMISSIONERS.

507. Instructions pertaining to this matter will be found in paragraphs 1005 to 1028, instructions to commissioners.

DETAINED WITNESSES.

508. When a witness is detained in prison for want of security for his appearance, he is entitled in addition to his subsistence to a compensation of \$1 per day. (See Sec. 848, R. S. U. S.)

509. A person convicted of crime brought before a commissioner to testify as a witness, is not entitled to mileage or fees. (See 9 Comp., MS. 860.)

510. A person in custody awaiting trial for an alleged offense, attending before a commissioner as a witness, is entitled to the usual fees. (See 6 Comp., 588.)

511. The compensation of \$1 per day for detained witnesses is not applicable to aliens, who, after having been ordered deported, are detained as prospective witnesses. Such aliens are not entitled to any stated sum of money for each day's detention. The cost of their maintenance and necessary expenses incident to their detention are payable by the Department of Labor. (See 11 Comp., 727.)

512. An alien properly subpoenaed and later released on bond for his appearance, is entitled to the usual per diems and mileage as a witness. During his release on bond, however, he is not entitled to a per diem of \$1 as a detained witness. If such alien is committed to prison on account of failure to give the necessary recognizance, he is entitled to a compensation of \$1 per day under section 848, R. S. U. S., for the actual time detained. (See 15 Comp., 787.)

513. Alien witnesses transported under writs of habeas corpus ad testificandum at the expense of the United States are entitled only to the usual per diem of \$1.50 for each day's attendance in court. If they are discharged from custody after testifying they may be paid return mileage. The Government is not liable to pay both actual expenses and mileage at the same time. (See 16 Comp., 727.)

VOUCHERS, ABSTRACTS, AND ANALYSES.

514. The following forms are used for witness vouchers:

Form 685, when 5 cents per mile is payable.

Form 686, when 15 cents per mile for overland travel is payable.

Form 685 or 686, adapted to meet the special requirement, when payment is made to detained witnesses.

Form 2, when actual expenses are payable.

515. Vouchers for actual expenses must be itemized, supported by affidavit, and accompanied by receipts for hotel and livery bills, stage

fare, etc. Departmental regulations governing actual expenses are not applicable to actual expenses of witnesses. (See 18 Comp., 992.)

516. Such accounts should be passed upon and ordered paid by the court and abstracted as other vouchers.

517. The instructions in paragraphs 482 to 487, relative to vouchering, abstracting, and analyzing vouchers for payment to jurors, are applicable also to witness vouchers.

518. Witness rolls of commissioners should be arranged chronologically for each commissioner, fastened together at the upper left-hand corner, and abstracted on Form 125. The abstract should show the number and amount of each voucher and the title of each case. The total of this abstract should be carried to the regular abstract of payments to court witnesses.

MISCELLANEOUS MATTERS CONCERNING WITNESSES.

519. Witnesses attending in United States cases before justices of the peace, or other State officers authorized to hold preliminary examinations, or before examiners of the Pension Bureau, are payable (when the fees are properly taxed) by marshals. (See 22 Stat. L., 174.)

520. A witness who, in obedience to a court subpoena, attends before a special examiner to give testimony for the United States in a case then pending, is entitled to the same fees and mileage as a court witness, payable only by order of the court and upon certificate of the examiner. (See 15 Comp., 133.)

521. Witnesses in condemnation proceedings should be paid the usual fees from the appropriation "Fees of Witnesses, U. S. Courts," unless by the practice in the State court special compensation is provided, in which event such special compensation is payable upon authorization from the appropriation "Miscellaneous Expenses, U. S. Courts." (See 2 Comp., 377.)

522. The Secretary of the Treasury is authorized to enter into an agreement to compensate a witness, whose testimony is necessary in the prosecution of a smuggler, for coming within the jurisdiction of the court and to reimburse him for the necessary expenses incurred in performing the service. (See 4 Comp., 495.)

523. The appropriation for the prevention and detection of fraud upon the customs service is applicable to the expense of procuring evidence to be used in the prosecution of a smuggler. (See 4 Comp., 495.)

524. The appropriation for collecting the revenue from customs is applicable to the payment of witnesses under agreements to come within the jurisdiction of the courts * * * when the evidence is necessary in proceedings for the forfeiture of goods seized by customs officers. (See 4 Comp., 519.)

525. An officer of the Navy is entitled only to actual and necessary expenses for attendance as a witness before a grand jury, in response to a subpœna, notwithstanding he may have been ordered by his superior officer to answer said subpœna. (See 4 Comp., 146.)

ADVANCES TO WITNESSES.

526. If it should become apparent that any important witness regularly subpœnaed on behalf of the United States, *and absolutely essential to the proper presentation of the case*, is unable to attend court for want of sufficient funds with which to defray expenses of travel and subsistence, the district attorney may himself communicate (by wire, if necessary) with the marshal for the district in which said witness resides, requesting the marshal to locate the witness and supply sufficient funds to enable him to attend. The district attorney should also notify the marshal of his own district where the witness is to testify, that such action has been taken.

527. If a telegram is necessary, it should be in substantially the following form:

CITY, STATE,
Date.

UNITED STATES MARSHAL,
City, State.

John Doe, 123 Rowe Street, Blank City, needed here as witness. Recommend advance to him under paragraph 526, Instructions.

528. Upon receipt of such request, the marshal may exact from the witness an affidavit setting forth that he is under subpœna to attend court, and without money to pay the expenses of travel and subsistence incident to responding to said subpœna.

529. Upon receipt of such affidavit the marshal may, if willing to do so, advance by official check only sufficient money to pay approximately the actual cost of travel and subsistence, in going only, to attend court, taking the receipt of the witness therefor, and treating such receipt as cash on hand, pending reimbursement.

530. Immediately upon making such advance the marshal must inform (by wire, if necessary) the marshal of the district in which the witness is to attend, requesting reimbursement.

531. If a telegram is necessary, it should be in substantially the following form:

CITY, STATE.
Date.

UNITED STATES MARSHAL,
City, State.

Advanced John Doe, 123 Rowe Street, Blank City, subpœnaed as witness your district dollars. Arrange my reimbursement.

532. Marshals making settlement with a witness who has received an advance of funds should draw two official checks in favor of the witness, one for the exact amount of the money advanced, and the other for the balance due the witness. The former check should be

submitted to the witness for indorsement and then transmitted to the marshal who made the advance. The latter check should be delivered to the witness in the ordinary manner.

533. Advances should not be made to witnesses subpoenaed to attend before commissioners without specific authority.

534. Advances to witnesses are optional. They can not be charged under any appropriation but must be carried as cash on hand.

535. District attorneys will be held strictly responsible for limiting their recommendations that such advances be made to those cases only in which the witness is absolutely essential.

UNITED STATES PRISONERS.

536. For instructions concerning transportation of prisoners, see paragraphs 411 to 416; guarding and feeding prisoners, paragraphs 382 to 389; delivery of prisoners to successor in office, paragraph 100.

REPORTS OF THE COMMITMENT AND RELEASE OF PRISONERS.

537. Marshals should supply each active United States commissioner in their respective districts with "release" cards (Form 509) requesting him to report to the marshal's office thereon each discharge of a prisoner appearing before him.

538. Jailers in whose custody United States prisoners are placed should also be supplied with "release" cards (Form 510) and requested to report thereon to the marshal's office each United States prisoner discharged by expiration of sentence.

539. Each deputy marshal should be supplied with both commitment and release cards (Forms 450 and 451), and the deputy should report at once on such cards each prisoner committed to jail, either temporarily, or to serve sentence, and each release of a prisoner whom he again takes into custody.

540. These cards will be used by the marshal in maintaining the record of prisoners committed to the several county jails, illustrated on insert following page 75.

541. Marshals will also report to the Chief, Division of Accounts, Department of Justice, the commitment of each prisoner to a State penitentiary, or other like penal institution, in the following form:

Institution, .....	.....
Prisoner, .....	.....
District,	; Sentenced,
Committed,	; Term,
Expires Full time, .....	.....
" With commutation, .....	.....
Remarks: .....	.....
.....
.....
.....
.....

SUPPORT OF PRISONERS.

542. Prisoners are maintained and otherwise cared for under the appropriation entitled "Support of Prisoners, United States Courts," which provides for the following items:

-) Necessary clothing and medical aid.
- (b) Discharge gratuities provided by law.
- (c) Transportation to place of conviction or place of bona fide residence in the United States or such other place within the United States as may be authorized by the Attorney General.
- (d) Maintenance—board and lodging.
- (e) Support of prisoners becoming insane during imprisonment.
- (f) Cost of shipping remains of deceased prisoners to their friends or relatives in the United States.
- (g) Interment expenses of deceased prisoners whose remains are unclaimed.
- (h) Care and treatment of guards employed by the United States who may be injured by prisoners while said guards are endeavoring to prevent escapes or suppress mutiny.

(i) Expenses incurred in identifying and pursuing escaped prisoners and for rewards for their recapture.

(j) Expenses incident to repairs, betterments, and improvements of United States jails, including sidewalks.

543. Marshals should advise officials of State institutions who may make inquiry or submit claims for maintenance of Federal prisoners as follows:

(a) That accounts should be prepared quarterly by the officials of the institution upon Form 11 D. C., all the information contemplated by the form being supplied.

(b) That such accounts should be transmitted to the Department of Justice promptly after the close of each quarter for examination and payment by the disbursing clerk of the department, or by settlement direct from the Treasury.

(c) That an entirely separate account should be prepared covering the support of prisoners committed by the courts of the District of Columbia.

544. Bills or accounts for the maintenance of prisoners in county jails (as distinguished from penitentiary accounts) and for the support of detained witnesses are payable by the marshal upon the authorization of the Attorney General.

545. Any such accounts wherein per diem rates are charged different from those formerly paid, should be transmitted to the department for instructions before payment. Like procedure should be observed with reference to all bills for special or unusual items.

546. Marshals will, of course, be guided by the orders of the court in the matter of the confinement of detained witnesses in homes or institutions other than jails, promptly reporting such cases to the department for instructions as to payment.

547. All persons convicted as United States prisoners and who are sentenced for a period not less than six months, are entitled to the gratuities of cash, clothing, and transportation, upon their discharge from the United States penitentiary, State institution, or county jail. (See Comp. to Attorney General, Feb. 9, 1915.)

548. Where a person is taken into custody and delivered to a jailer on a charge pending before a commissioner or other judicial officer, the maintenance is chargeable against the appropriation for "Support of Prisoners, U. S. Courts" and it is immaterial by whom or in what manner the prisoner was delivered to the jailer. (See 17 Comp., 566.)

549. The expense of keeping a prisoner in jail when the department has no arrangement with the jailer for his maintenance, is payable from "Salaries, Fees, and Expenses of Marshals" when the jailer refuses to keep the prisoner unless paid at once by the marshal or deputy. (See 13 Comp., 856.)

CHINESE PRISONERS.

550. Upon receiving writs or orders of deportation for Chinese prisoners marshals should at once make written report to the Commissioner General of Immigration, Department of Labor, Washington, D. C., stating the names of prisoners, where confined, and when the period of appeal allowed under section 13 of the act of September 13, 1888, will expire. Instructions will then be issued by the Department of Labor as to the method of procedure to be observed in executing the writs, and to whom accounts are to be presented or forwarded for settlement.

551. Accounts which include charges for support of Chinese prisoners should show the manner of the release of the prisoner, that is "discharged" or "deported." If the latter, the date of the order of deportation, and its delivery to the marshal for service should be shown.

552. The cost of maintaining Chinese prisoners is payable as follows:

(a) Expenses incurred, usually by Chinese inspectors, prior to the issuance of a warrant and the arrest of the defendant thereunder by the marshal or a deputy; from the appropriation for the enforcement of the Chinese-exclusion act, through the Department of Labor. (See 7 Comp., 372.)

(b) Expenses incurred after the issuance of a warrant, and the arrest of the defendant by the marshal or deputy, and up to the

time the prisoner is discharged, or an order for his deportation is delivered to the marshal, and in case of appeal from the order, up to the time of the disposition of the appeal; payable as other like expenses of other classes of prisoners. (See 11 Comp., 265, 475 and 777.)

(c) Expenses incurred after the order of deportation has been delivered to the marshal, or an appeal thereon has been disposed of; through the Department of Labor and not from any judiciary appropriation.

(d) Expenses of a deputy in the detention of a Chinese prisoner, arrested without warrant pending the issuance of a warrant, are payable from the usual judiciary appropriations. (See 8 Comp., 470.)

(e) The expenses of supporting Chinese persons committed by order of court to the custody of the marshal, pending proceedings under a writ of habeas corpus to try the validity of their detention by customs officers, are payable from the appropriation "Support of Prisoners, U. S. Courts." (See 7 Comp. Dec., 437.)

(f) Expenses incurred in an endeavor to recapture Chinese prisoners who escaped from the custody of a deputy marshal while being transported to the seaboard for deportation are properly payable as incident to the cost of transportation. (See 5 Comp., 487.)

VOUCHERS, ABSTRACTS, AND ANALYSES.

553. Every effort should be made to cause jailers to render bills promptly at the close of each quarter.

554. Each voucher should be in duplicate; the names thereon arranged in alphabetical order. It should be supported by the affidavit of the claimant; carefully verified by reference to the register of United States prisoners; and contain specific reference to the authority for payment.

555. The following forms will be used for these vouchers:

(a) Maintenance of prisoners by jailer. Form 4.

(b) Physicians' visits. Form 3.

(c) Personal services. Form 746.

(d) Receipt for clothing furnished prisoner. Form 329.

(e) Miscellaneous purchases. Form 324.

556. Vouchers should be numbered consecutively and abstracted on Form 125.

557. A special abstract of disbursements should also be prepared on Form 174 G-A, covering all disbursements under the appropriation "Support of Prisoners, U. S. Courts."

558. The analysis of disbursements should be prepared on Form 770. This form should be submitted each quarter, whether there are or are not disbursements under the appropriation in question. Separate analyses should be made only for items pertaining to different fiscal years.

"PAY OF BAILIFFS, ETC., U. S. COURTS."

GENERAL INSTRUCTIONS.

559. The following items are payable from this appropriation:

(a) Per diems of bailiffs and criers.

(b) Expenses of travel and maintenance of judges.

(c) Meals and lodging for jurors in United States cases, and bailiffs in attendance thereon, when ordered by the court.

(d) Compensation of jury commissioners.

560. All vouchers should be prepared as herein directed, numbered consecutively, and abstracted on Form 125. Abstracts should show the number of each voucher, the name, title, and amount due for each payee. They should be prepared *in triplicate*. Transmit two copies to the Department with the original account. File one with the duplicate account.

561. An analysis of disbursements should also be prepared in the manner indicated by the form provided. In case there are no disbursements the form should nevertheless be forwarded, and this fact noted thereon.

562. Separate analyses should be made only for items pertaining to different fiscal years.

BAILIFFS AND CRIERS.

563. Bailiffs are appointed by the marshal; criers by the court. They receive a per diem compensation of \$3. They are entitled to payment when they attend upon the order of the court. (See 33 Stat. L., 1259, and 36 Stat. L., 1088.)

564. Vouchers should be prepared on Form 5. The first certificate should be signed by the payee, the second by the marshal.

565. The appropriation acts provide for three bailiffs and one crier in each court, except in the southern district of New York and the northern district of Illinois, where provision is made for five bailiffs and one crier. In cases where urgent necessity requires the employment of more than three bailiffs, special taxation must be made under section 846, R. S. U. S., and the account must receive the approval of the President. (See paragraphs 351 to 354.)

566. If two judges sit in the same place but in different divisions of the court, three bailiffs may be employed in each division. (See 1 Comp., 135.)

567. If necessary, one set of three bailiffs may be employed in the circuit courts of appeals and another set in the district court for the same day. (See 4 Comp., 141.)

568. If salaried deputies are required by the terms of their appointment to render services as bailiffs, they should be considered as in lieu of bailiffs allowed by law. (See 4 Comp., 226.)

569. Payments to bailiffs or criers, as the case may be, are *allowable* in the following instances:

(a) When a bailiff attends by order of court on the grand or petit jury, even though court is not in session. (See 4 Comp., 113.)

(b) For a national holiday, when the court temporarily adjourns over such holiday (applicable to both bailiffs and criers). (See 16 Comp., 581.)

(c) For attendance before a master in chancery, provided not more than two other bailiffs are paid for attendance upon the same court on the same day. (See 17 Comp., 938.)

570. Payments to bailiffs or criers, as the case may be, are *not allowable* in the following instances:

(a) For services by a bailiff to a judge at chambers when court is not in session. (See Letter of Comp. to Auditor, June 23, 1898.)

(b) For substitutes employed by bailiffs or criers.

(c) When the service is rendered by a salaried deputy, fee deputy, or United States commissioner. (See secs. 13 and 20, act of May 28, 1896.)

571. The employment of a bailiff does not necessarily terminate upon the expiration of the term of the marshal who employed him. (See 4 Comp., 603.)

572. Payment of witness fees to the regular bailiff for the same day that he officiates as bailiff is prohibited. (See 15 Comp., 835.)

EXPENSES OF JUDGES.

573. Circuit justices, circuit and district judges, and judges of the district court of the United States in Hawaii are entitled to necessary expenses of travel and reasonable expenses not to exceed \$10 per day actually incurred for maintenance consequent upon attending court or transacting other official business in pursuance of law at any place other than their official residence. Such expenses are payable by the marshal of the district in which said court is held, or official business transacted, upon the written certificate of the justice or judge. (See 36 Stat. L., 1161.)

574. Form 33 should be used for vouchering such expenses when incident to holding court; Form 28 when incident to the transaction of other official business.

MEALS AND LODGING FOR JURORS.

575. The cost of meals and lodging for jurors and for bailiffs in attendance thereon is payable by the marshal only when ordered by the court and then only in United States cases.

576. Form 8 should be used for vouchering such items. The certificate of the clerk thereon should be completely executed and

signed. If meals and lodging are furnished for bailiffs in charge of the jury, the certificate should show that the court ordered the marshal to furnish both jury and bailiffs (giving the number) with said meals and lodging.

JURY COMMISSIONERS.

577. Jury commissioners are appointed by the judge. They receive a per diem compensation of \$5 and may be employed for not exceeding three days for any one term of court.

578. A jury commissioner may not be paid for services at an "adjourned term" if he has received payment for three days' service at the term held at the time and place fixed by law. (See 4 Comp., 63.)

579. Mileage or other allowance may not be made to a jury commissioner in addition to the per diem fee. (See 4 Comp., 352.)

580. Form 24 should be used for vouchering these payments. The marshal should state on the voucher whether any preceding payment has been made to the commissioner for services at the term of court mentioned therein. The affidavit should be fully completed and executed before an officer authorized to administer oaths generally.

THE APPROPRIATION "MISCELLANEOUS EXPENSES, U. S. COURTS."

GENERAL INSTRUCTIONS.

581. This appropriation provides for such miscellaneous expenses for the United States courts and their officers, "*as may be authorized and approved by the Attorney General.*"

582. Marshals should have specific authority before making any payment thereunder excepting the cost of telegrams and long-distance telephone calls sent by judges on purely judicial business, payment of which, in accordance with the instructions under this heading (pars. 5 to 12), is hereby authorized generally. (See also general authority as to advertising in par. 590.)

583. Applications for authority to incur expenses should be prepared on Form 25-B.

VOUCHERS, ABSTRACTS, AND ANALYSES.

584. Many different classes of expenses are payable from this appropriation. They should be vouchered on the regular forms in current use. All the information contemplated by the forms should

be supplied. It is particularly important to show the dates, file numbers, and initials on letters and forms authorizing payment.

585. Vouchers should be abstracted on Form 9, and the analysis of disbursements carefully prepared on the special form provided.

586. When it becomes necessary to use more than one sheet of the form for the analysis, the horizontal totals of the first sheet should be carried forward to the second sheet, and so on to the conclusion. Fasten sheets together only at the upper left-hand corner.

587. Form 9 should be prepared in triplicate. The original and triplicate should accompany the original vouchers.

ADVERTISING AND PUBLICATION OF NOTICES.

588. All advertising on behalf of the United States required by law may be paid for at a price not to exceed the commercial rates charged to private individuals with the usual discounts; such rates to be ascertained by sworn statements furnished by the publishers. (See 20 Stat. L., 216; also 19 Comp., 628; Comptroller to marshal, western Oklahoma, Aug. 5, 1914; and Comptroller in re appeal of marshal, South Dakota, Jan. 22, 1915.)

589. Marshals should not pay bills for advertising unless they are satisfied that the rates are in accordance with law, notwithstanding an affidavit may be made as above provided. (See 1 Comp., 312.)

590. Bills for advertising are ordinarily payable from the appropriation "Miscellaneous Expenses, U. S. Courts." Such payments, at rates complying with the requirements of law, are hereby authorized generally, covering all advertising executed in accordance with orders of the court, excepting in cases for violations of navigation, customs, pure-food, and insecticide laws, and in any other cases in which the expense for advertising may be payable from the proceeds of sale of seized property. In such cases, and in all cases involving advertising or publishing of notices other than by orders of the court, specific authority should be obtained from the Department of Justice before any expense is incurred.

"SALARIES AND EXPENSES OF DISTRICT ATTORNEYS, U. S. COURTS."

591. For instructions concerning items payable from this appropriation, their authorization and vouchering, see paragraphs 8(b), 329, and 659 to 677.

ABSTRACTING PAYMENTS.

592. All vouchers under the appropriation "Salaries and Expenses of District Attorneys, U. S. Courts" should be abstracted on Form 125, prepared in triplicate, the original and triplicate to be transmitted to the department. The items should be arranged and totaled in five separate groups, as follows:

- (a) Salaries of district attorneys.
- (b) All other salaries.
- (c) Expenses of travel and subsistence of the district attorney and each of his assistants.
- (d) Expenses of travel and subsistence of clerks to district attorneys.
- (e) Miscellaneous office expenses.

NOTE.—All payments made to a given person should be listed together, as far as practicable.

CHAPTER VI.

MISCELLANEOUS MATTERS.

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CLAIMS.

593. Judiciary funds for a given fiscal year may be advanced (excepting in districts detached from the mainland of the United States, such as Hawaii, and excepting for the purpose of liquidating overdrafts or correcting errors), only until September 30 of the following fiscal year.

594. Claims against the Government remaining unpaid after the close of the period during which advances may be made should be transmitted to the Department of Justice for settlement direct from the Treasury.

595. It is exceedingly important that such claims be accompanied by a definite explanation of the reason for the delay in settlement. It must be shown what efforts were made by the claimant to collect the money in due course of business, and why such efforts were unsuccessful.

596. They should be supported by the affidavit of the marshal to the effect that it has been found upon careful examination that none of the items have been paid. They should also be approved by the marshal if he is of the opinion that they are properly payable by the Government.

597. Claims of jurors and witnesses must be accompanied by a certificate of attendance by the clerk of the court or commissioner as the case may be.

598. Claims of deputy marshals (other than for salaries) must be approved by the court. (See 8 Comp., 380.)

ASSIGNMENTS, POWERS OF ATTORNEY, TRANSFERS, ETC.

599. Section 3477, R. S. U. S.:

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney must recite the warrant for payment, and must be acknowledged by the person making them before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

600. The word "claim," as used in section 3477, R. S. U. S., which provides that "all transfers and assignments made of any claim upon the United States * * * shall be absolutely null and void," unless made as prescribed therein, comprehends all demands against the United States for the payment of money, whether liquidated or unliquidated; and an assignment of a judgment against the United States made before "the issuing of a warrant for the payment thereof" is within the meaning of the statute, and void. (See 4 Comp., 196.)

SERVICES AND SUPPLIES FOR COURT ROOMS AND OFFICES IN FEDERAL BUILDINGS.

601. In such buildings, application should be made to the custodian for:

- (a) Services of janitors and kindred employees.
- (b) Supplies, other than books, stationery, soap, and towels.
- (c) Repairs to furniture, vaults, etc.
- (d) Metal file boxes. (See 3 Comp., 252.)

602. In matters of services and supplies other than as above stated, applications in accordance with instructions which will be found under appropriate headings should be made to the Department of Justice.

TRANSFER OF GOVERNMENT PROPERTY FROM RENTED TO FEDERAL BUILDINGS.

603. With the exception of court records, such transfers will be made under the direction of the custodian of the Federal building, who will defray all incident expenses. The marshal should prepare a list of the property thus transferred and a separate list of the remaining property (if any) which the custodian refuses to take and

transmit them to the department. If the articles not needed in the Federal building can not be used elsewhere, instructions will be given to have them sold.

604. The removal of court records will be made under the direction and supervision of the marshal, who will make application on Form 25B for authority to incur the expense, submitting two or more competitive bids.

LEASED OR RENTED BUILDINGS.

RENTING OR LEASING.

605. Before incurring any expense, excepting in extreme emergency (which must be promptly reported), for rent of a building or improvements thereon, instructions should be obtained from the Attorney General. (Sec sec. 830, R. S. U. S.)

606. If it becomes necessary to provide accommodations for courts and their officers, it is the duty of the marshal to request authority from the department to ascertain what suitable buildings can be procured and invite written proposals for leasing them to the Government. Such applications should state the necessities of the situation, the duration of past terms of court (if any), and the probable duration of future terms.

607. Such proposals should be transmitted to the department with diagrams or plats, showing the dimensions of the rooms and the purposes for which each will be used. A report should also be transmitted with the diagrams, setting forth the views of the judge and district attorney and containing such information as will enable the department to determine the relative desirability of the propositions submitted.

608. Unless such a course is manifestly impracticable, propositions to lease must be for furnished accommodations; heated, lighted, and equipped with janitor service, supplies, and water, at the expense of the lessor.

609. Forms for the preparation of leases will be furnished by the department when the execution of the contracts are authorized.

610. Leases must be executed and acknowledged in accordance with the laws of the State or Territory in which the property is located. If necessary, the marshal should confer with the district attorney as to this matter.

SUPERVISION.

611. The marshal of each district is hereby designated custodian of all buildings or rooms within the district rented or leased for the accommodation of the United States courts and their officers. He is charged with the duty of seeing that the lessors observe the terms of the leases, of promptly notifying them of frozen pipes, leaking gas,

leaking roof or other defects, and of withholding payment of rent if the premises are not maintained in sanitary, tenantable condition or necessary repairs and improvements are not made promptly in accordance with the contract.

612. If emergency should arise, demanding immediate action in the matter of repairs, the lessors or owners should be called upon at once to reimburse the marshal, covering necessary expenses of meeting such emergency.

613. If there is difficulty in effecting a compliance with the terms of the lease, the matter should be promptly reported to the department.

REPAIRS OR ALTERATIONS.

614. The fitting up of leased or rented premises for court purposes, so far as fixtures, alterations, and labor incident thereto are involved must be at the expense of the lessors, and all leases should so provide.

SERVICES AND EQUIPMENT.

615. Ordinarily, services and equipment will be furnished by the lessor, under the terms of the lease. If, however, this is not the case, application should be made to the department on Form 25B, explaining the necessity for the articles or the services and definitely describing them.

BILLS FOR RENT.

616. Such bills should be prepared on Form 761, the first certificate to be signed by the claimant and the second by the marshal. Vouchers should contain a reference to the lease or other authority for the expense. Payment should be made by the marshal from the appropriation entitled "Rent of Court Rooms, U. S. Courts."

PART THREE.

INSTRUCTIONS TO UNITED STATES DISTRICT ATTORNEYS.

CHAPTER I.

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DISTRICT ATTORNEYS.

APPOINTMENT AND INDUCTION INTO OFFICE.

617. A commission and blank forms for the execution of an oath of office are transmitted by the appointment clerk of the Department of Justice to each person appointed to be United States district attorney, together with a letter fixing the appointee's official residence.

618. The appointee should ordinarily confer with the district judge and with his predecessor in office and agree upon some satisfactory date for assuming duties. He should then advise the department accordingly, at the same time acknowledging receipt of his commission.

619. It is preferable that the oath of office be executed in open court on the day duties are assumed. If this is not practicable, it may be executed before any officer authorized by law to administer oaths.

620. If the oath of office is taken in open court, a certified copy should be at once transmitted to the department. If taken otherwise it should be executed in duplicate, the original filed with the clerk of the district court and the duplicate transmitted to the department.

621. The form of oath is prescribed by section 1757, R. S. U. S.

OFFICIAL RESIDENCE.

622. The law authorizes the Attorney General to fix the official residence of the district attorney and of each of his assistants. (See sec. 8, act May 28, 1896.) Such residence will be established with particular reference to convenience, dispatch, and economy in the transaction of official business.

TERM OF OFFICE—VACANCIES.

623. District attorneys are ordinarily appointed for a term of four years and until their successors shall be appointed and qualified. (See 30 Stat. L., 487.) Recess appointments, however, are temporary and expire upon the assuming of duties by the new appointee under an appointment confirmed by the United States Senate, or by their own terms, upon the close of the next session of the Senate following their issuance.

624. In case of vacancies in the office of district attorney, the district court of the district, or the Supreme Court of the District of Columbia, may appoint persons to exercise the duties of such offices until the vacancies shall be filled. (See 30 Stat. L., 487.)

COMPENSATION.

625. United States district attorneys receive statutory salaries (See 29 Stat. L., 179, and 35 Stat. L., 375.) They are also allowed, when absent from official headquarters on official business, actual necessary expenses for lodging and subsistence not exceeding \$4 per day, and actual necessary traveling expenses. The demanding or receiving, directly or indirectly, of any fees or compensation other than as above stated is penalized. (See 35 Stat. L., 375; as to southern New York, see sundry civil act of Mar. 4, 1907.)

626. The salaries and expenses of travel and subsistence of United States district attorneys are paid monthly by the marshals. Detailed instructions concerning the preparation and rendition of expense accounts will be found in paragraphs 659 to 676.

627. No money shall be paid from the Treasury, as salary, to any person appointed during the recess of the Senate to fill a vacancy in any existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate. (See sec. 1761, R. S. U. S.)

628. When any officer of a Territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the President, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office. (See sec. 1884, R. S. U. S.)

629. Extra compensation can not be allowed a district attorney for services which are performed in the course of his official employment.

630. The act of March 2, 1889, providing that all legal services connected with the procurement of title to sites for public buildings shall be rendered by district attorneys, not only requires such services to be performed by the district attorney, but prohibits the payment of compensation to another attorney employed for the purpose. (See sec. 6904, Compiled Stats. 1913.)

REGULAR ASSISTANTS TO DISTRICT ATTORNEYS.

APPOINTMENT.

631. Regular assistants to district attorneys are appointed by the Attorney General upon the recommendation of the district attorney. They receive annual salaries fixed by the Attorney General and are paid monthly by marshals. Such salaries, excepting where the law specifically provides otherwise, may not exceed \$2,500 per annum. (See secs. 8 and 24, act May 28, 1896; 34 Stat. L., 1360; 35 Stat. L., 375 and 841; and sec. 363, R. S. U. S.)

632. A regular assistant is appointed to assist the district attorney in performing the duties of his office, and one person may not be paid the compensation of both offices. (See 1 Comp., 184.)

633. Communications from district attorneys recommending the appointment of regular assistants should state:

(a) Full name and address of proposed appointee.

(NOTE.—Assistant attorneys must be residents of the district for which they are appointed.)

(b) Place and date of birth.

(c) Proposed rate of compensation.

(d) Qualifications of the applicant recommended for the position.

634. In all cases involving the creation of an additional position, as distinguished from a proposed appointment to fill a position already established, a certificate signed by the judge and district attorney must be furnished, setting forth the facts constituting the necessity for the appointment. (See sec. 8, act May 28, 1896.)

OATH OF OFFICE.

635. Each regular assistant must take the oath of office prescribed by section 1757, R. S. U. S. A copy of this oath, showing when the appointee assumes duties, should be transmitted to the Department of Justice. It is preferable that the oath be taken on the day duties are assumed.

OFFICIAL RESIDENCE.

636. The Attorney General is authorized to fix the official residence of regular assistants to district attorneys. Such residence will be fixed with particular reference to convenience, dispatch, and economy in the transaction of official business.

TERM OF OFFICE.

637. Regular assistant attorneys remain in office during the pleasure of the Attorney General. Resignations should be promptly reported to the department. It should be shown therein at the close of what day the resignation is to become effective.

SPECIAL ASSISTANTS TO DISTRICT ATTORNEYS AND SPECIAL LEGAL ASSISTANTS TO THE AT- TORNEY GENERAL.

638. Special assistants to district attorneys and to the Attorney General to aid in cases of unusual magnitude and importance may be appointed by the Attorney General when necessary under section 366, R. S. U. S.

639. A special assistant may not be appointed to perform the duties of a regular assistant. (See 4 Comp., 490.)

640. Special assistants must take the oath of office prescribed by section 1757, R. S. U. S., and forward the same at once to the Department of Justice, stating therein the date of entrance upon duty.

641. The compensation, including personal expenses of special assistants, as determined by the terms of their appointment, is payable wholly by the disbursing clerk of the Department of Justice under departmental rules and regulations, copies of which will be furnished upon application.

CLERKS TO DISTRICT ATTORNEYS.

642. District attorneys may, with the approval of the Attorney General, and at compensation fixed by him, employ clerical assistance. (See sec. 15, act May 28, 1896; 34 Stat. L., 754; 36 Stat. L., 1426.)

643. The civil-service rules except from examination only one clerk to each district attorney. Other clerks or messengers, if any, must be appointed by certification, transfer, or as otherwise provided by the civil-service rules.

644. Certification of eligibles will be made by the local secretary of the Civil Service Commission. (See pp. 26 to 29, of Form 131, issued by the commission.)

645. Applications for authority to employ clerks, other than those to be selected under the rules and regulations of the Civil Service Commission, should state:

- (a) Full name and address of proposed employee.
- (b) Place and date of birth.
- (c) Present occupation.
- (d) Proposed rate of compensation.
- (e) Qualifications for the position, and especially whether a stenographer qualified to take testimony in court.

646. Applications for authority to employ an additional clerk, or to employ temporary clerical assistance, as distinguished from applications for authority to fill a position already established, must be accompanied by a certificate from the district judge setting forth the facts constituting the necessity therefor. (See sec. 15, act May 28, 1896.)

OATH OF OFFICE.

647. Clerks to district attorneys must take the oath of office prescribed by section 1757, R. S. U. S., and forward the same at once to the Department of Justice, stating therein the date of entry upon duty.

TERM OF SERVICE—VACANCIES.

648. Clerks to United States district attorneys remain in office during the pleasure of the district attorney, unless sooner removed by the cancellation of the approval of the Attorney General.

649. Their term of office expires, however, with that of the district attorney by whom they may be employed. (See 4 Comp., 601.) There is a special provision contained in the annual appropriation acts under which such clerks may be paid for services actually rendered in good faith during vacancies in the office of United States district attorneys.

650. Resignations, suspensions, and dismissals must be immediately reported to the department. It must be shown therein at the close of what date compensation should cease.

MESSENGERS TO UNITED STATES DISTRICT ATTORNEYS.

651. If exceptional circumstances render the employment of a messenger in the district attorney's office essential to the expeditious and economical transaction of official business, application may be made for the necessary authority.

652. Such application should explain definitely and clearly the necessities of the situation and give information similar to that required in applications for authority to employ clerical assistance.

653. As stated in paragraph 643, messengers must be employed in accordance with the rules and regulations of the Civil Service Commission.

654. Such items are to be treated as office expenses, which must be authorized by the Attorney General. (See par. 677.)

APPROVAL OF ACCOUNTS.

655. The law provides for the approval by the court of the accounts of clerks and marshals in the presence of the attorney or his assistant, and requires the accounts of commissioners to be forwarded to the attorney, to be by him submitted for approval in open court.

656. Commissioners' accounts should be compared with the records of the attorney's office. When submitted for approval the court should be informed of any charges which such examination shows to be erroneous, also any charges found within the personal knowledge of the attorney or his assistants to be illegal, or contrary to the rules and practice in his district.

657. When any part of an account is not approved by the court, the item or items not approved should be specified by the district attorney in a separate statement accompanying the account.

658. When a commissioner claims two per diems in one case, the account must show why the hearing could not be completed in one day. If satisfactory reason is not shown or obtained concerning the cause of the continuance, objection should be made to the approval of the second per diem. (See sec. 21, act May 28, 1896.)

TRAVELING EXPENSES OF DISTRICT ATTORNEYS, THEIR ASSISTANTS AND CLERKS.

659. Expenses of lodging and subsistence, not exceeding \$4 per day, and traveling expenses of district attorneys and their regular assistants while necessarily absent from their official residences on official business are payable from the appropriation "Salaries and Expenses of District Attorneys, U. S. Courts."

660. The vouchers for such expenses should be prepared monthly on Form 754; supported by affidavit on Form 755; submitted to

and examined by the district judge; and when approved by said judge, handed to the marshal for payment.

661. If it is necessary to travel *outside of the district* permission must first be obtained from the Attorney General and the account must show the date of the letter granting such permission. In requesting such authority, the necessity for the trip should be fully explained.

662. Such expenses should be fully itemized, each item dated and entered in chronological order. Each voucher should also show clearly the purpose of the trip or trips taken.

663. The itemization of charges should be so arranged that the exact amount paid for any one day may be readily determined. The items of expense of a given day begin with breakfast and end with lodging. (See 7 Comp., 338.)

664. The maximum charge for lodging and subsistence should not exceed \$4 for any day during the trip. If expenses amount to less than \$4 on one day and more than \$4 on the succeeding day, they can not be averaged so as to charge \$8 for two days. (See 4 Comp., 418.)

665. Receipts should be obtained for lodging and subsistence (showing the first and last meal taken and the day or days of lodging), also for hire of a vehicle, if any.

666. Round-trip tickets should be used whenever practicable and economical.

667. Charges for the use of vehicles owned by district attorneys or their assistants are not allowable. (See 20 Comp., 666, and 21 Comp., 219.)

668. The Government is not chargeable with expenses arising on account of remaining at a given point on private business, or for excess cost of travel other than by the shortest usually traveled route.

669. Necessary portorage (when not prohibited by State law) on sleeping cars not exceeding 25 cents per day or parlor cars not exceeding 15 cents per day is allowable.

670. Fees to waiters (when not prohibited by State law), not exceeding 45 cents per day, and when there is continuous absence from headquarters for 6 days or more, laundry, at not exceeding the rate of \$6 per month, will be allowed as part of and within the maximum per diem for subsistence. Reasonable fees actually paid to expressmen and porters who handle baggage on arrival at and departure from hotels and stations, will be allowed as expenses of travel, when not contrary to State law.

671. Items for hire of a vehicle are allowable only if the necessity therefor is clearly shown.

672. If joint expenses of subsistence are incurred by an employee and his wife while he is absent on official business, one-half of the

amount thus expended is allowable if within the fixed maximum allowance. (See 21 Comp., 622.)

673. When travel is begun from any place other than the official headquarters (the officer not being at said place on official business) expenses are not allowable in excess of what it would have cost if travel had been commenced at headquarters.

674. Passes granting free transportation within State limits should not be used for official business.

675. Accounts of traveling expenses of clerks to district attorneys incurred in accordance with previous authorization from the Attorney General are governed by the same rules and regulations and are payable by the marshal from the same appropriation as like accounts for traveling expenses of regular assistant attorneys, excepting that the maximum compensation for subsistence is usually fixed at \$3 per day. Such accounts should be approved by the district attorney instead of by the judge. They should be prepared on Form 766. (See 3 Comp., 253.)

676. Applications for authority to have clerks travel to attend terms of court should be made on Form 25-B in the usual manner, *but only when* the clerk's presence and assistance is clearly essential.

OFFICE EXPENSES.

677. Office expenses of district attorneys are provided for by section 14 of the act of May 28, 1896, and the instructions pertaining to office expenses of marshals, found in paragraphs 346 to 348, are applicable to like expenses of district attorneys; also the instructions pertaining to telegrams and long-distance telephone messages, found in paragraphs 5 to 12, and as to supplies in paragraphs 14 to 21.

SPECIAL EXPENSES OF CONDUCTING PARTICULAR CASES PAYABLE, AFTER FORMAL AUTHORIZATION, FROM THE APPROPRIATION "MISCELLANEOUS EXPENSES, U. S. COURTS."

GENERAL INSTRUCTIONS.

678. Action which will create liability or result in the presentation of a claim covering services or expenses payable as above stated must be taken only after formal authorization has been received from the Attorney General. Application for authority to incur such expenses should be made on Form 25-B, prepared in quintuplicate, i. e., one original and four carbon copies; two copies will be returned and the others retained for departmental records.

679. The estimated total cost, proposed rates of payment, and full definite information concerning the character of and the necessity for the expense should be shown in each application.

680. The following are among the items payable as above stated, special instructions concerning each of which will be found under its proper heading:

- (a) Stenographers to report proceedings.
- (b) Interpreters.
- (c) Experts and other special employees.
- (d) Printing records and briefs.
- (e) Abstractors of title.

STENOGRAPHERS TO REPORT PROCEEDINGS.

681. District attorneys should advertise annually, during the month of June, for proposals from competent stenographers to take and transcribe testimony in all cases where such action may be authorized during the approaching fiscal year. Such proposals should be transmitted to the department with suitable recommendations for authority to award the contract.

682. Notwithstanding the existence of an annual contract, authority should be procured for having the testimony taken under such contract in each specific case, and such applications should be confined closely to those cases of special importance in which such action is necessary to protect the interests of the Government.

683. Applications on Form 25-B should show:

- (a) Title and character of case and the exceptional circumstances which render stenographic services necessary.
- (b) Proposed per diem compensation for reporting the proceedings.
- (c) Proposed rate of payment per folio for making transcript if necessary the number of copies required, and for whom.
- (d) Probable duration of employment, and estimated total expense.
- (e) Whether the district attorney's clerk or the judge's stenographer is able to take and transcribe testimony, and if so, why his services can not be utilized to report the case in question.

VOUCHERS.

684. Accounts of stenographers employed to take testimony should be vouchered on Form 746, when without expenses, and 747 when with expenses. All of the information contemplated by the form should be supplied. The dates on which services were rendered and the number of folios transcribed (verified by the office of the district attorney before approval) should be shown.

INTERPRETERS.

685. Upon the approach of a term of court during which it will be necessary to employ interpreters the district attorney should make application upon Form 25-B for the necessary authority. Such application should be made in sufficient time to permit the

receipt of a response by mail in the ordinary course of business prior to the time when the services will be needed.

686. Applications should state the facts constituting the necessity for the services, the proposed rate of compensation, and the estimated total expense.

687. It is the duty of the district attorney to so arrange for the trial of cases in which the services of interpreters may be necessary that they may be disposed of consecutively at the commencement of the term of court, thus obviating unnecessary expense.

688. Accounts of interpreters should be vouchered on Form 583 when with expenses and 742 when without expenses. The marshal must certify thereon that no payment was made to the claimant from the appropriation "Fees of Witnesses, U. S. Courts."

EXPERTS AND OTHER SPECIAL EMPLOYEES.

689. It is the duty of the district attorney to familiarize himself, as far as practicable, by inquiry, and if necessary by advertisement, with experts, such as handwriting, medical, and others, whose services are likely to be needed from time to time in important cases, and if possible ascertain what rates of compensation they would be willing to accept if needed, in order to avoid being dependent upon a single individual, and subject to his demands as to compensation, at a time when the Government must have such services.

690. Experts on behalf of the United States in prosecutions for violations of the pure-food act are payable by the Department of Agriculture. (See Department of Justice Circular dated June 14, 1909.) When experts are needed in such cases district attorneys should communicate with the Secretary of Agriculture. If inspectors are needed, they should communicate with the Solicitor for the Department of Agriculture, instead of issuing subpoenas for them.

691. Applications should be submitted on Form 25-B sufficiently early to admit of the receipt of a response by mail prior to the time when the services will be required. They should state:

(a) The title of the case and the character of the services to be rendered.

(b) The facts constituting the necessity for the employment.

(c) Name and present occupation of the proposed employee.

(d) Proposed rate of compensation; probable duration of employment; and estimated total expense.

692. Experts are not entitled to receive and must not be paid witness fees, mileage, or actual expenses from the appropriation "Fees of Witnesses, U. S. Courts."

VOUCHERS.

693. Accounts of experts should be vouchered on Form No. 674-08. The marshal should certify upon the voucher that no

payment has been made to the claimant from the appropriation "Fees of Witnesses, U. S. Courts."

694. If vouchers contain charges for Sunday per diems, it must be shown affirmatively that services were actually and necessarily rendered on such days.

695. These vouchers should be prepared in duplicate, and all of the information contemplated by the forms supplied. If expenses are allowed, subvouchers should be furnished as far as practicable. Receipts for railroad fare, sleeping-car fare, or single meals are not required. The purpose of each trip must be shown.

PRINTING RECORDS AND BRIEFS.

696. For instructions relative to the printing of records and briefs see paragraphs 891 to 895, in instructions to clerks of United States courts.

696*a*. As all cases in which the United States is a party or interested, pending in the *Supreme Court of the United States*, are looked after by the Department itself, the printing of *briefs* on behalf of the Government therein at the request of United States attorneys will not be granted.

EXPENSE OF ABSTRACTS OF TITLE.

(See also paragraph 727.)

697. If an abstract of title is needed for use in condemnation proceedings application for authority to procure same, accompanied by two or more competitive bids, should be transmitted to the department, prepared upon Form 25-B.

698. If the land is needed as a site *for a public building* (other than a life-saving station or a pierhead light) and the land is to be purchased, without resorting to condemnation proceedings, the grantor in each case must furnish, free of all expense to the Government, all requisite abstracts, official certifications, and evidences of title that the Attorney General may deem necessary. (See act of Mar. 2, 1889, 25 Stat. L., 941; also see 7 Comp., 53.)

699. The expense of procuring an abstract of title to land to be used as a site *for a fortification* (as distinguished from a public building) is a proper charge against the appropriation made for the purchase of the site, if the abstract is needed by the United States attorney to assist him in examining the title, provided the land is to be purchased and not condemned. (See 3 Comp., 216.)

OFFICE FILES AND RECORDS.

700. All incoming letters, telegrams, and other papers, as well as copies of all outgoing letters, telegrams, etc., pertaining to a given case or proceeding should be placed together in an orderly manner

and filed under a cover or label, stating definitely the title and nature of the action. These groups of papers should be arranged according to the docket numbers of the respective proceedings.

701. All incoming letters, telegrams, etc., and carbon copies of all outgoing letters, etc., which do not pertain to a given proceeding and can not, therefore, be suitably filed, as directed in the foregoing paragraph, should be carefully classified and filed alphabetically by subjects. The copy of the answer to each letter or telegram should be placed therewith.

DOCKETS.

702. The following dockets, which must be kept up to date, are prescribed for use by district attorneys. They are furnished by the department upon requisitions, which should be prepared upon Form 17 A:

- (a) Register of complaints.
- (b) Grand jury docket.
- (c) Criminal docket.
- (d) Civil docket.
- (e) Witness docket.

703. There should be entered in the register of complaints all formal complaints (other than those which are manifestly trifling, frivolous, or which clearly do not involve violations of United States laws), whether oral or written and whether prosecution is or is not instituted. The following information should be recorded:

- (a) Name of person submitting complaint.
- (b) Name of person making affidavit for warrant of arrest, if any is to be issued.
- (c) Date of said affidavit.
- (d) Nature of offense charged and name and residence of defendant.
- (e) Names and addresses of proposed witnesses as far as known.
- (f) Result of the preliminary hearing, if held, of the accused.

704. There should be recorded in the grand jury docket the names of defendants, and of witnesses for the Government, and any other information essential to the proper presentation of the case. The *action* of the *grand jury* should be shown in each matter. Information should be recorded in this docket promptly as received from day to day, in order that the docket may be ready for immediate use in the grand jury room.

705. There should be recorded in the criminal docket every step taken in each criminal case after an indictment is found or information filed, until its final determination.

706. There should be recorded in the civil docket a brief entry of every pleading and proceeding in each civil case brought on behalf of or against the United States; from the issuance of the *præcipe* to its conclusion.

707. There should be recorded in the witness docket the following data:

(a) Names and addresses of all witnesses subpoenaed for the Government in both civil and criminal cases.

(b) Dates when witnesses are summoned to appear, when they attend, and when they are discharged.

DOCKET REPORTS.

708. A report on Form No. 90 of each and every case, civil or criminal, in which the district attorney enters his appearance as a representative of the United States or any department, bureau, or office thereof, whether handled by the district attorney or by special counsel, must be transmitted to the Department of Justice not later than the close of business on the day following its institution. Each such report must show:

(a) The court docket number.

(b) The name of each and every party.

(c) When, where, how (by indictment, information, or otherwise), and in what court commenced.

(d) The departmental identification number. For instance, in cases under the 28-hour law, show Department of Agriculture number; in cases under the safety-appliance act, show Interstate Commerce Commission number, etc.

(e) *In civil cases*.—The exact nature of the case and on what account money or other claims are made. In suits to recover land the acreage and description, as well as the purpose, should be stated. This rule applies also to other classes of property.

(f) *In criminal cases*.—The specific offense charged; statute violated; and sufficient additional information to show the classification of the case. For instance, in indictments under sections 35, 37, and 125 of the Penal Code, the report should show the object of submitting the false claim, to whom presented, etc.; give the crime in connection with which a conspiracy arises, state whether to defraud the United States, and the object of the conspiracy; and in cases of perjury, show the offense out of which the perjury charge grows.

709. A report on Form 91, which is a continuation sheet of Form 90, designed to show all material docket entries made subsequent to the institution of the case, must be made at the close of each calendar month, and also within five days after the business of the United States has been disposed of for each term of court. Such report should show:

Items (a), (b), (c), and (d), as described under Form No. 90.

(e) The transfer of cases to another division. State both old and new docket numbers.

(f) All material docket entries in the case, with dates.

(g) The conclusion of the suit. Show the exact amount of money or property recovered; the amount of fine or penalty imposed, the costs and interest as separate items, and in cases of imprisonment, give date of sentence and place of confinement.

(h) In cases settled out of court, show the amount of land, money, or other property recovered.

ADMINISTRATIVE FORESIGHT AND ECONOMY.

710. The issuance of alias and pluries writs of *capias* when there is no expectation of service, and writs of *fiery facias* or executions when there is no expectation that anything will be realized, should be avoided. Sound discretion should be exercised in such matters. If the clerk of the court issues executions in United States cases without being first requested to do so, the matter should be brought to the attention of the court.

711. District attorneys should endeavor to see that only responsible sureties are accepted and the expense of forfeiting worthless bail bonds and recognizances avoided.

712. Frivolous and unnecessary prosecutions should not be initiated. Any disposition by commissioners to encourage such prosecutions should be reported to the court, and like practice by deputy marshals to the marshal and Attorney General.

713. Only necessary witnesses should be subpoenaed. They should be discharged as promptly as practicable. In all cases where any considerable expense is involved there should be cooperation in this matter with the Bureau of Investigation of the department and proposed witnesses interviewed by agents of this bureau to determine whether it is worth while to have them subpoenaed.

714. There should be noted in the witness docket the dates of attendance and discharge of witnesses, and a memorandum of same furnished to the clerk of the court.

715. With the consent of the judge, a definite number of cases should be assigned for trial each day during the time allowed for the transaction of criminal business. Such assignments should be made with particular reference to the attendance of witnesses, that they may be examined and discharged at the earliest possible opportunity.

716. Witnesses who are to appear at approximately the same time in two or more cases at one term should not be served with separate subpoenas as to each case. This matter may be controlled by naming each witness only once in the *præcipes* for a given term.

NOTE.—See paragraphs 526 to 535, relative to advances to witnesses.

CHAPTER II.

LEGAL MATTERS.

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DUTIES.

717. Section 362 R. S. U. S., places district attorneys under the general supervision and direction of the Attorney General.

717a. All reports, recommendations or requests for instructions, unless otherwise specifically directed, should be made to the Attorney General.

717b. **CONTROL OF CAUSES.**—The control (extrajudicial) of the conduct and disposition of all litigation, both civil and criminal, in which the Government of the United States is interested, either directly or indirectly, is at all times in the Attorney General of the United States.

718. Section 771 R. S. prescribes the general duties of district attorneys in both civil and criminal matters.

719. Among the specific duties required by various statutes are the initiation and prosecution, or defense of, or performance of, other legal services in connection with:

(a) Actions brought against officers of either House of Congress on account of their official acts (see 18 Stat., 401); taking testimony with relation to any private claim pending before Congress (see 20 Stat., 278);

(b) The procurement of title for public buildings, other than life-saving stations and pierhead sites (see R. S., sec. 335; 25 Stat., 941);

suits for the partition of land in which the Government is a tenant in common or joint tenant (see 30 Stat., 416); to restrain the unlawful inclosure of public land (see 23 Stat., 321);

(c) Suits arising out of laws governing national banks in which the United States or any of its officers or agents are parties (see R. S., sec. 380);

(d) Suits for money due the Post Office Department (see R. S., sec. 381);

(e) Proceedings for the recovery of fines, penalties, and forfeitures for the violation of any revenue law (see R. S., sec. 838; 18 Stat., 189): If upon any matter submitted to you by a collector under section 838, Revised Statutes, your conclusions shall be adverse to action, you will submit the facts to the Secretary of the Treasury in customs matters, and to the Commissioner of Internal Revenue in internal-revenue matters, to learn through direction of its responsible head the position of that department or bureau. If such direction shall be to proceed, but if in your judgment there be in the particular matter either a legal insufficiency of evidence or some other controlling law question which if rightfully applied would forbid a successful outcome for the Government, you will forthwith forward the entire case, facts and law, and all correspondence, together with your own views and the reasons therefor and any supporting authorities to this department, advising the Secretary or the commissioner of your action. Whereupon this department will finally instruct you therein. If there be no such controlling questions, you will proceed in accordance with the direction of the Secretary or the commissioner.

(e¹) Proceedings for the condemnation of property seized and claimed on account of violations of customs laws and regulations (see R. S., 3706);

(f) Libels against prize property and in prize causes (see R. S., sec. 4618, 4619);

(g) Suits at law and equity in which Indians on reservations or allotted Indians are parties (see 27 Stat., 631); to enforce or prevent violations of law upon Indian agencies (see 17 Stat., 463); prosecutions of persons receiving moneys from Indians on prohibited contracts (see 16 Stat., 570);

(h) Prosecutions for disobeying subpœnas issued by courts-martial of the Army and Navy (see 31 Stat., 950; 35 Stat., 622);

(i) Proceedings to cancel fraudulent naturalization certificates (see 24 Stat., 601);

(j) Suits for the recovery of penalties for violation of the alien labor contract laws (see 34 Stat., 900); for the recovery of penalties under the acts regulating hours of service of employees of common carriers (see 34 Stat., 1416); violations of the insecticide and fungicide

act (see 36 Stat., 332); violations of the safety-appliance and boiler-inspection acts (see 27 Stat., 532; 32 Stat., 943; 35 Stat., 476; 36 Stat., 299, 916);

(*k*) Proceedings for the enforcement of the interstate commerce acts and the punishment of violations thereof (see 24 Stat., 383; 25 Stat., 858; 26 Stat., 743; 32 Stat., 848; 34 Stat., 590; 36 Stat., 554);

(*l*) Inquiry and report as to certain violations of laws enacted for the protection of persons or property engaged in commerce or navigation (see R. S., 4300);

(*m*) Prosecution of offenders against the act forbidding the obstruction of navigable harbors or streams (see 30 Stat., 1153);

(*n*) Prosecutions for violations of the cattle quarantine act (see 23 Stat., 33); violations of the 28-hour cattle transportation act (see 34 Stat., 608); to recover penalties for the violation of the pure food and drug law (see 34 Stat., 769);

(*o*) Proceedings against foreign vessels for the recovery of penalties for violating the State and Federal quarantine laws (see 27 Stat., 449);

(*p*) Proceedings to restrain and punish violations of the antitrust acts when so specifically directed by the Attorney General (see 26 Stat., 209; 28 Stat., 570; 38 Stat., 736);

(*q*) Cases in the Circuit Courts of Appeals of their respective circuits wherever sitting (see 29 Stat., 179);

(*r*) Statements, reports, and returns to this and other departments as set out in sections 362, 722-775, R. S., and instructions herein.

ATTENTION TO PRIVATE BUSINESS.

(See also paragraph 1.)

720. While it is not intended to prohibit the acceptance by district attorneys and their assistants of private professional engagements not incompatible with their public duties, these officials must carefully observe the following instructions:

(*a*) As far as possible they should be present in the public offices allotted to them during reasonable office hours ready to meet the public and confer about and transact official business;

(*b*) The transaction of private professional business in public offices is manifestly improper and will not be allowed;

(*c*) It is equally as improper for public officials to seek to promote their private business by printing their official titles in newspaper advertisements and upon private letterheads or business cards, and the practice is strictly forbidden.

DISMISSING CRIMINAL CASES.

721. As a general rule, authority should be obtained from this department to dismiss a criminal prosecution or any count in an indictment which substantially qualifies the nature of the charge, except in petty offenses which involve no matter or principle of considerable public interest or importance. In cases of exigency where it is deemed necessary to dismiss a prosecution or any count in an indictment, and there is not opportunity to obtain authority from the department, proper report should be made of the action taken and the reasons therefor. No case of any character instituted at the direction of this department or as the result of investigations directed by it or in which some other department or branch of the Government is specially interested should be dismissed without authorization from this department.

PLEAS OF NOLO CONTENDERE.

722. In any case where the statute upon which the indictment is based requires imprisonment as the sole or partial punishment, consent should be refused to the plea of nolo contendere and objection made to its acceptance by the court. It should be accepted only in cases punishable solely or in the alternative by fine. (See 196 Fed., 260, and 235 U. S., 412.)

SUSPENDED SENTENCES.

723. In the opinion of the department no Federal court has power to suspend indefinitely the imposition or execution of sentence, either directly by entry of an order, or indirectly by continuing the case from term to term for sentence, or otherwise. Where motions for such suspensions are made, proper protest should be made by district attorneys; and if the court should order suspension, or unduly delay imposition of sentence or order for its execution upon proper request made, exception should be taken and a prompt report made to the department.

INDICTMENT.

724. In all cases of moment involving any novel, difficult, or doubtful question of criminal pleading, whenever possible, draft of the proposed indictment should be submitted to the department seasonably in advance of presentation to the grand jury, for examination and suggestion, together with a brief statement of facts not appearing upon the face of the indictment, or probable deficiencies in the proof. With proper restrictions, a similar course should be pursued in proceedings upon habeas corpus and in proceedings in the Circuit Court of Appeals on error.

TAXATION OF COSTS.

725. A statement of the taxable costs and expenses of the Government in each case, including any docket, deposition, or other fees of the district attorney, should be furnished promptly to the clerk of the court, so that where the Government prevails such fees may be taxed as costs (see secs. 823-827 R. S. U. S.), collected by the clerk, and covered into the Treasury. (See Act May 28, 1896, sec. 6; 29 Stat., 179.)

IMPOSITION OF SENTENCE AND HEARING OF NATURALIZATION CASES.

726. With a view to lessening expenses caused by the loss of time by jurymen, so far as possible, arrangements should be made with the court to impose sentences and hear naturalization cases at times which can not be devoted to jury trials.

ABSTRACTS OF TITLE.

(See also paragraphs 697 to 699.)

727. Reports on abstracts of title to land proposed to be purchased by the Government should set out clearly any doubtful question arising, with citation of the pages of the abstract where the difficulty is found, together with an opinion as to the proper solution under the laws of the State in which the land is situated. All incumbrances of every character, including easements, mortgages, tax liens, and covenants running with the land, must be stated. If the abstract is deemed to disclose a perfect title that fact should be clearly stated.

BAIL IN CRIMINAL CASES.

728. When the defendant in any criminal or habeas corpus case shall be admitted to bail, pending a decision by the Supreme Court, you will *at once* advise the department, stating when the bail was given, and in what amount, in order that steps may be taken for a prompt hearing of the case.

APPROVAL OF PLEADINGS.

729. Duplicate copies should be sent to the department of all bills in equity, declarations, and other pleadings which require the approval of the Attorney General, in order that one copy may be retained for the department files, and, if afterwards printed, at least two copies should be sent to the department.

ANTITRUST CASES.

730. No proceeding, civil or criminal, under the Federal antitrust laws should be instituted without first obtaining authority from the department.

CHINESE-EXCLUSION CASES.

731. Any designation of a commissioner under section 1 of the act of March 3, 1901 (see 31 Stat., 1093), should be reported to the Attorney General at once.

732. When an order of discharge is entered, establishing the lawfulness of the residence of a Chinese person in the United States by a court or commissioner, the clerk or commissioner should be instructed, if demand is made for additional certified copies of the order, to mark upon each successive copy furnished the words "first," "second," etc., and also the words "extra copy issued on account of loss of original."

INSTITUTION, PROSECUTION, SETTLEMENT AND DEFENSE OF CIVIL SUITS AND REPORTS RELATING THERETO.

733. Prompt report should be made to the Attorney General of any infringement of the property or other interests of the Government warranting the institution of civil proceedings. Unless in case of exigency, where some material interests of the Government will suffer by delay, no civil suit should be instituted or defense interposed until reports have been made and appropriate instructions given.

734. When advice or information is desired as to the institution, conduct, or disposition of any suit by or against the United States, request therefor should be transmitted to the Attorney General, accompanied by a clear and succinct statement of facts, the points of law involved, the authorities deemed applicable, and the opinion of the district attorney.

735. After judgment is perfected, execution should be placed in the hands of the marshal at the earliest practicable moment, with instructions for prompt and diligent action by that officer, and the district attorney should see to it that such action is taken, reporting to the Attorney General any delinquency by the marshal.

736. Except where authorized by law, district attorneys will not receive payment of any demand made in behalf of the United States. Unless otherwise provided by law or specific instructions, the money should be paid to the clerk of the court.

737. The Solicitor of the Treasury has been designated by the Attorney General to superintend the collection of debts due to the Post Office Department, including penalties and forfeitures imposed. A report of all such proceedings should be made to the solicitor.

738. Other reports required by the Solicitor of the Treasury, with the approval of the Attorney General, shall be made upon appropriate forms to be furnished by the solicitor.

739. The district attorney should report to the Attorney General any property belonging to the United States which is not receiving

proper care, any claim in favor of the Government not in his hands which in his opinion can be collected, and any default of any officer or employee of the Government or other person engaged in the collection of any debt due the United States or of the customs revenue or in the disbursement of Government funds.

740. Where an offer is made to settle by compromise a suit brought by the Government or claim transmitted by the Attorney General for prosecution, the district attorney shall transmit to the Attorney General the said offer, a full statement of facts his recommendation in favor of or against the acceptance thereof, and reasons therefor. The procedure provided in section 3469, Revised Statutes, does not apply in such instances.

SUITS AGAINST THE UNITED STATES.

743. If suit is brought against the United States in the United States District Court, under the act of March 3, 1887 (see 24 Stat., 506; Judicial Code, sec. 24, par. 20), the department should be promptly advised and the necessary data in the executive departments for defense will be furnished.

744. In case of judgment or decree adverse to the Government, the procedure prescribed in section 7 of the act (see 24 Stat., 507) should be pursued.

745. Requests for findings which set out in the fullest detail all pertinent facts should be made. In case of refusal by the court to make findings upon any material question of fact requested, exception should be reserved.

746. The record upon appeal or writ of error from decisions under this jurisdiction should not contain the evidence.

APPEALS AND WRITS OF ERROR.

The following instructions in relation to Government cases which may hereafter be taken to the United States Circuit Courts of Appeals or to the Supreme Court of the United States by appeal, writ of error, or otherwise, should be strictly followed:

DISTRICT COURT.

APPROVAL OF PLEADINGS.

747. Duplicate copies should be sent to the department of all bills in equity, declarations, and other pleadings which require the approval of the Attorney General, in order that one copy may be retained for the department files, and, if afterwards printed, at least two copies should be sent to the department.

REPORTING DECISIONS, SENDING COPIES OF BRIEFS, ETC.

747a. Advise the department promptly of the decision by the District Court of the United States of Government cases which are of sufficient importance to be taken, by either party, to the Circuit Court of Appeals or to the Supreme Court for review. This report is entirely distinct from that required for the Attorney General's annual report, from reports under the act of March 3, 1887 (24 Stat., 507), and from those required to be made to any other officer. It should state fully the questions of fact and law involved in the case and the decision, the recommendation of the district attorney, the reasons therefor, and be accompanied by copies of the court's opinion and the briefs or lists of authorities used by both sides at the trial.

CIRCUIT COURT OF APPEALS.

APPEALS BY UNITED STATES.

748. No appeal shall be taken to or writ of error sued out from a Circuit Court of Appeals *in any Government case* without the express authorization of this department. If requested to take such action by an officer of any other department, send a copy of his request immediately to the department. If, however, time does not permit, take the action requested and report to the department for instructions as to whether the appeal shall be prosecuted.

APPEALS BY OTHER SIDE.

748a. When Government cases are taken to the Circuit Court of Appeals *by the other side*, advise the department thereof at once, stating when the case was docketed for review, its numbers in the Circuit Court of Appeals and in the lower court, and the question and amount involved.

FORWARDING COPIES OF RECORDS, BRIEFS, ETC.

748b. *Send a copy of the record, when printed, and of each brief or other paper, when filed. When the case is decided send promptly a copy of the opinion of the court, with any recommendation or suggestion you may desire to make.*

RECORDS, PRINTING IN CASES TO BE TAKEN TO SUPREME COURT.

748c. Where the record is voluminous in any Government case, pending in a District Court, or in a Circuit Court of Appeals, which is to be taken to the Supreme Court, or in any case in which it is reasonably certain that either party will appeal to the Supreme Court, arrangements should be made with opposing counsel for the printing of *at least thirty extra* copies thereof, so as to avoid the necessity for reprinting in the Supreme Court; the cost of the extra copies to be paid by the party taking the appeal to the Supreme Court.

RECORDS, PRINTING, IN SUPREME COURT.

748d. In no case, however, in which an appeal is taken to or a writ of error sued out *from the Supreme Court* to a District Court, or to a Circuit Court of Appeals, shall district attorneys undertake to have the transcript of the record printed. Such records are printed directly under the supervision of the clerk of the Supreme Court.

BRIEFS, PRINTING, IN SUPREME COURT.

748e. See section 696*a* as to printing briefs.

RECORDS, REDUCTION, ON APPEAL.

748f. Your attention is directed to the equity rules, promulgated by the Supreme Court on November 4, 1912, and particularly to rules 75, 76, and 77, in relation to records on appeal.

CASES FROM ALASKA, HAWAII, AND PORTO RICO.

748g. Cases from Alaska and Hawaii are reviewable in the Circuit Court of Appeals for the Ninth Circuit, under sections 134, and 128 and 116, respectively, of the Judicial Code, and cases from the District Court for Porto Rico are reviewable in the Circuit Court of Appeals for the First Circuit, under the provisions of the act of January 25, 1915 (38 Stat. L., 803, 804). Such cases should be promptly reported to the department so that instructions for review, if any, may be given. Definite instructions to the district attorney to look after the case in the Circuit Court of Appeals, or to turn it over to the district attorney for the district in which the court is sitting, will be given in each case by the department.

SUPREME COURT.

CITATIONS, ON APPEAL OR WRIT OF ERROR.

749. Promptly furnish to the department copies of citations served upon you in Government cases taken to the Supreme Court, *sending at the same time, unless theretofore transmitted, copies of the record in the Circuit Court of Appeals, briefs on both sides, etc., and the opinion of the court.*

APPEALS, BY UNITED STATES.

749a. No appeal shall be taken to or writ of error sued out from the Supreme Court *in any Government case* without the express authorization of this department. If requested to take such action by an officer of any other department, send a copy of his request immediately to the department. If, however, time does not permit, take the action requested and report to the department for instructions as to whether the appeal shall be prosecuted.

FORWARDING TRANSCRIPT OF RECORD.

749b. When directed to take an appeal or sue out a writ of error on behalf of the United States, notify the department of the date of the allowance of the appeal or the suing out of the writ of error, and have the certified transcript of the record sent *direct to the department (not to the clerk of the Supreme Court)*, so that it may be examined before filling. The Supreme Court assents to this course as a sufficient compliance with rule 8, which requires the clerk of the lower court to transmit a transcript of the record.

PETITIONS FOR CERTIORARI, ETC.

749c. Should notice be served upon you at any time by opposing counsel in any Government case that an application for a writ of certiorari, or other similar petition or motion, will be presented to the Supreme Court of the United States, you should positively *refuse to accept service* thereof, stating to counsel that you are without authority to do so: that notice, including the date of the proposed presentation, together with copies of the petition or motion, and brief, should be sent to the Solicitor General, who is directly in charge of Government cases in the Supreme Court. A strict compliance with this rule is necessary to the proper conduct of the Government business in that court. A copy of the petition or motion, however, if lodged with you, should be sent at once to the department with information as to when it is to be submitted to the Supreme Court. Copies of the record, briefs, etc., and opinion of the Circuit Court of Appeals should be transmitted also, unless previously sent.

CASES UNDER CRIMINAL APPEALS ACT.

750. In all criminal cases, in which a writ of error will lie on behalf of the United States direct from the Supreme Court to the District Court, as provided in the act of March 2, 1907 (34 Stat. L., 1246), district attorneys are requested to have the judge file a written opinion showing that the decision sustaining a demurrer to, quashing or setting aside, the indictment (not information), is based upon the invalidity or construction of the statute on which the indictment is founded. If only the construction of the *indictment* is involved, the case is not reviewable. This fact should be shown in order to give the Supreme Court jurisdiction under the act. See *United States v. Carter*, 231 U. S., 492, and *United States v. Nixon*, 235 U. S., 231.

750a. As the time within which writs of error under this act may be sued out is fixed at 30 days from the date of the entry of the judgment or order, recommendations as to taking such cases to the Supreme Court should be made as promptly as possible.

750b. The recommendation should be accompanied by copies of the decision of the court, the indictment, the demurrers or pleas interposed by the defendant, a transcript of the proceedings, if available, and a brief of the authorities cited on both sides.

BAIL.

751. When the defendant in any criminal case, or petitioner in any habeas corpus or deportation case, shall be admitted to bail, pending a decision by the Supreme Court, you will *at once* advise the department, stating when the bail was given, and in what amount, in order that steps may be taken for a prompt hearing of the case.

RECORDS, FORM, ETC.

752. The attention of district attorneys is directed to rule 8 of the Supreme Court, the amendments to sections 2 and 9 of rule 10, promulgated by the Supreme Court March 20, 1916, and Department Circular No. 594 of April 10, 1916, in relation to transcripts of record on writ of error and appeal; and to rule 31 in relation to the form of printed records.

BILLS OF EXCEPTIONS.

753. In the preparation of bills of exceptions in cases to be taken to the Supreme Court, rule 4 of that court, which prohibits the allowance of any bill of exceptions "which shall contain the charge of the court at large to the jury in trials at common law upon any general exception to the whole of such charge," should be complied with.

753a. The bill should contain only a succinct statement of so much of the evidence, or such a statement of its tendency or effect, or of the facts proved, as may be necessary to explain the bearing of the alleged erroneous rulings and show the application of the portions of the charge excepted to. (See *Lincoln v. Claphin*, 7 Wall., 132, 136; *Hanna v. Mass.*, 122 U. S. 24; *Michigan Insurance Bank v. Eldred*, 143 U. S., 298; *Lucas v. United States*, 150 U. S., 476.)

753b. As the Supreme Court will not review the action of the lower court in refusing to grant a motion for a new trial (*Blitz v. United States*, 153 U. S. 312, and cases cited), the opinion of the court on such a motion must not be made a part of the record (rule 8, section 2, not applying to such opinions). A copy of such opinion, however, is frequently of use in the preparation of the brief of the case in the Supreme Court, and should be sent to the department with your report.

753c. You are directed to object to any bill of exceptions presented to you which is not made up in conformity with these instructions.

753d. A strict compliance with these instructions is necessary in order to save the expense of printing voluminous records and the time of the court and of counsel.

ASSIGNMENTS OF ERROR.

754. The attention of district attorneys is also directed to rule 35 of the rules of the Supreme Court, in relation to assignments of error.

EXPEDITING ACT. CASES UNDER.

755. In cases taken to the Supreme Court under section 2 of the *Expediting Act*, approved February 11, 1903 (32 Stat. L., 823), as amended June 25, 1910 (36 Stat. L., 854), or under section 3 of the *Elkins Act*, approved February 19, 1903 (32 Stat. L., 847), reports to the department called for *supra* should be sent as promptly as possible, as any appeal must be taken within *sixty* days from the date of the entry of the decree.

MANDATES.

756. Applications should not be made by district attorneys to the clerk of the Supreme Court for mandates in Government cases. Mandates will be sent to them at the proper time by the department.

APPLICATIONS FOR EXECUTIVE CLEMENCY.

757. Such applications (except as stated in the next paragraph) are addressed to the President and filed in the Department of Justice. They are then referred by the department to the district attorney for the district in which the applicant was convicted for a report as to the facts, his own recommendation in the premises, and if possible the recommendations of the trial judge. It is desirable that the recommendations of the judge be over his own signature.

758. Applications for pardon or commutation of sentence in Army and Navy cases are not considered by the Department of Justice, and should be sent to the Secretary of War and the Secretary of the Navy, respectively. After such cases have been acted upon favorably by the heads of those departments and by the President, the formal warrants of pardon are issued through the Department of Justice.

759. A copy of the "Rules Relating to Applications for Pardon" should be in the office of every district attorney. Such copies will be furnished on request, but blank forms of petitions for pardon are not provided.

PART FOUR.

INSTRUCTIONS TO CLERKS OF UNITED STATES COURTS.

[The word "clerk" as used in these instructions refers to the clerks of the district court, excepting as otherwise specifically stated.]

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APPOINTMENT AND QUALIFICATION.

APPOINTMENT.

760. Clerks of district courts are appointed by the respective district judges. (See 36 Stat. L., 1087.) Clerks of circuit courts of appeals are appointed by the court. (See 36 Stat. L., 1132.)

761. The law provides that no person shall be appointed or employed in any office or duty in any court, who is related by affinity or consanguinity within the degree of first cousin to the judge of such court, but excepts those who held positions or employments in circuit courts when they were abolished, in the matter of their appointment or employment in the district court succeeding to the circuit court's jurisdiction. (See 36 Stat. L., 1105, and 37 Stat. L., 46.)

OATH.

762. Each clerk of the district court or circuit court of appeals must take the oaths or affirmations of office prescribed by sections 794 and 1757, R. S. U. S., certified copies of which should be transmitted to the Department of Justice.

BONDS.

763. Clerks of district courts and circuit courts of appeals are required by law to execute official bonds in an amount (not less than \$5,000 nor more than \$20,000) to be determined and regulated by the Attorney General. Such bonds must be approved in open court and recorded. The original bond, accompanied by a certified copy of the order of approval, must be transmitted to and remain on file in the Department of Justice. Certified copies shall be competent evidence in any court. Bonds in increased amounts not to exceed \$40,000, may also be required. (See secs. 2 and 3, act of Feb. 22, 1875, 1st Sup. R. S. U. S., p. 65.)

764. Blank forms for clerks' bonds will be furnished by the department upon application therefor.

EXAMINATION AND RENEWAL OF BONDS.

765. Every officer required by law to take and approve official bonds should cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond should examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary. (See 28 Stat. L., 807.)

766. Every officer whose duty it is to take and approve official bonds should cause all such bonds to be renewed every four years after their dates, but he may require such bonds to be renewed or strengthened oftener if he deem such action necessary.

DEPUTY CLERKS AND OFFICE ASSISTANTS.

767. There are a number of specific provisions of law requiring deputy clerks to be stationed at given points. In all other instances the clerk may, with the approval of the district judge, appoint such number of deputy clerks to reside and maintain offices at such points as may be deemed necessary by the judge. Such deputies may be removed at the pleasure of the clerk, with the concurrence of the judge. (See 36 Stat. L., 1087.)

768. The compensation of deputy clerks is subject to the approval of the Attorney General. Clerks should include the names of their deputies and the proposed rates of compensation in the annual application for authority to incur office expenses, to be made as directed in paragraph 824.

769. Clerical assistants other than deputies may be employed upon authorization by the Attorney General at rates of compensation fixed by him. Annual application for such authority should be made as directed in paragraph 824.

770. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk, in his name, until a clerk is appointed and qualified; and for the default or misfeasance in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk and his estate and the sureties on his official bond shall be liable; and his executor or administrator shall have such remedy for any such default or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime. (See 36 Stat. L., 1087.)

OATH OF OFFICE.

771. Deputy clerks must take the oaths or affirmations prescribed by sections 794 and 1757, R. S. U. S., as in the case of clerks.

BONDS.

772. The court may require any deputy clerk to give a bond similar to the bond furnished by the clerk. Such bond should be recorded, and the original transmitted to the Department of Justice. The legal responsibility of the clerk for the acts of the deputy is not affected by the existence of the deputy's bond. A deputy, giving a bond, should be bonded to the United States and not to the clerk. (See sec. 796, R. S. U. S.)

REPORTING CIVIL SUITS AND PROTECTING PROPERTY INTERESTS OF THE GOVERNMENT.

773. The following regulations are prescribed by the Solicitor of the Treasury under authority of sections 377, 379, and 797, R. S. U. S.:

774. When a civil suit is commenced in behalf of the United States, the clerk, in all cases required by the Solicitor of the Treasury, with the approval of the Attorney General, will promptly report the fact to the Solicitor of the Treasury, stating the time of commencement, the character of the action, the amount claimed, and the parties thereto, according to the form prescribed for that purpose.

775. Within 30 days after the adjournment of each term of the court the clerk will forward to the Solicitor of the Treasury a list of all judgments and decrees entered therein since the close of the term next preceding the one so adjourned, showing the amount adjudged or decreed for or against the United States, specifying the amount of debt or damages and costs; showing also in each case whether execution has been issued, the time when issued, and whether it has been returned; and if returned, setting forth the time when the return was made and the substance thereof. Blank forms for such returns will be furnished by the office of the solicitor.

776. Clerks will report respecting all post-office cases, as required of United States attorneys by paragraph 738 of these instructions.

777. Internal-revenue cases are not to be reported to the Solicitor of the Treasury, but action on forfeited recognizances in such cases should be so reported.

778. Clerks will report to the Solicitor of the Treasury the existence and situation of any property belonging to the United States which is not in the care of any officer or agent of the Government, to the end that it may be protected and preserved. If they shall discover that any claim in favor of the Government, apparently neglected, can be collected, they will report to the Attorney General and recommend the best mode of proceeding. They will also report immediately to the Attorney General any default of any officer or person engaged in the collection of any debt due the United States or of the customs revenue or in the disbursement of any money belonging to the Government.

CLERKS' COMPENSATION.

779. *Clerks are compensated out of fees earned from the United States and from individuals and corporations.*—Excepting in a few States where special provisions apply, the maximum compensation is at the rate of \$3,500 per annum. Earnings are applicable, first, to the payment of authorized office expenses, including clerk hire. The residue may be retained by the clerk as personal compensation within the prescribed maximum, any excess to be paid into the Treasury or deposited to the credit of the Treasurer of the United States. (See sec. 839, R. S. U. S.)

780. Additional compensation may be earned in prize cases. (See sec. 842, R. S. U. S.)

781. A clerk's maximum compensation is computed by the calendar year, and where he serves less than a year is limited to a pro rata for the period of service. (See 7 Comp., 171.)

782. A deceased clerk's estate is not entitled to the personal compensation of the office accruing subsequent to his death and prior to the appointment of his successor. (See 15 Comp., 401.)

783. The allowance for personal compensation for each calendar year shall be made only from the fees and emoluments of that year. (See sec. 843, R. S. U. S.)

ACCOUNTS.

(For fees earned from the United States.)

GENERAL INSTRUCTIONS.

784. Accounts should be prepared quarterly, on paper 8½ by 14 inches, and transmitted to the Department of Justice within 20 days after the close of the quarter. Each account must include all fees earned from the United States during the quarter.

785. The quarters of a fiscal year end September 30, December 31, March 31, and June 30, respectively.

786. The pages should be numbered in the lower left-hand corner and the footing of each page carried to the top of the next page.

787. Charges should be arranged in the following order:

(a) Travel to attend court (stating the places from which and to which travel was made).

(b) Attendance on court (stating each day for which a per diem is charged. If a Sunday or holiday is charged for, it must be shown that court was open and business transacted therein). If attendance is charged when the judge was absent, the account should show the services on which the charge is based.

(c) Return travel.

(d) Miscellaneous services not rendered in a particular case.

(e) Services in cases.

788. There must be an itemization of charges showing:

(a) The title and character of each case in which services are charged.

(b) The date of each item of service.

(c) The character of each paper filed.

(d) The folios contained in each paper drawn and each entry made. (See sec. 854, R. S. U. S.)

789. All charges for services relating to proceedings leading up to and subsequent to an indictment against any one or more persons, including charges for filing the commissioner's papers, should be made under a single case caption; and where it is not clear from the nature of the service itself that such service was on behalf of the United States, the account should show the facts which made it a service on their behalf.

790. Where fees are claimed in two or more cases against the same defendant, they should, if possible, be charged on the same or consecutive pages of the account.

791. Copies of orders approving accounts (to be attached to the duplicate accounts) are unnecessary when the duplicates are or should be filed in the office of the clerk at the place of approval, and fees for making or certifying such copies will not be allowed.

792. Certificates of clerks that duplicate accounts have been filed in their offices are unnecessary, and fees for making such certificates will not be allowed.

793. Seals to copies of orders approving accounts are required; but seals to affidavits and to copies of orders relative to subvouchers are not required, and charges therefor are not allowed.

794. When charge is made for issuing a *capias* or bench warrant, it must be shown whether the defendant was already in custody or on bond; and, if on bond, that the warrant was issued *on order of court*. (See act of Mar. 3, 1887.)

795. When charge is made for issuing an alias or pluries writ of capias, the account must show that the same was issued upon the order of the court or on præcipe of the district attorney.

796. When fees are claimed for administering oaths to witnesses to testify, it should be affirmatively shown that such witnesses were sworn on behalf of the United States or after having been subpoenaed under the provisions of section 878, R. S. U. S.

797. Where fees are claimed for services rendered on appeal, the account should clearly show by whom the appeal was taken; and in all other cases the account should clearly indicate the nature of the service and on whose behalf it was rendered.

798. Charges for mileage should be included in quarterly accounts.

799. Where more than \$1 is charged for docket fee, the account must show that issue was joined; and where \$3 is charged, it must also show that testimony was taken.

800. When folio fees are claimed for making entries in cases, the account must show the total number of words in each entry.

AFFIDAVIT AND APPROVAL.

801. Accounts should be supported by an affidavit in the following form:

I, clerk of the United States district court for the district of being duly sworn, depose and say that the foregoing account, amounting to \$..... is just and true as therein stated; that no payment has been received by me on account thereof; that the services therein charged have been actually and necessarily performed as therein stated; and that all mileage charged is for actual and necessary travel.

Clerk District Court

Subscribed and sworn to this day of 19....

802. They must be submitted for approval in open court.

803. The order of approval should be in substantially the following form:

Whereas clerk of the United States district court for the di strict of has rendered to this court an account for his official services from the day of 19... to the day of 19... in the presence of the district attorney, and has, by his oath, attached to the account, proved to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law, it is hereby ordered that said account, amounting to (.....) dollars be, and the same is hereby, approved. It is hereby certified that upon each day for which a per diem is charged in this account the court was opened for business and the judge present and presiding, except on the following days, viz, on which the district court was adjourned upon written orders of the judge, as provided by section 42 of the judicial code, and except on the following days, viz, on which orders of court were entered of record.

804. Any item or items not approved by the court should be specified.

EXPLANATIONS, SUSPENSIONS, DISALLOWANCES, AND REQUESTS FOR DECISIONS FROM THE COMPTROLLER.

805. Responses to interrogatories from the Department of Justice relative to accounts should be in duplicate. Explanations to suspensions by the Auditor for the State and Other Departments should be sent directly to the auditor. They are not required in duplicate. (For instructions as to appeals, etc., see pars. 1075 to 1087.)

806. Interrogations from this Department, statements of suspension and disallowance by the Auditor, and copies of answers thereto, with other correspondence relative to clerks' accounts and emolument returns, should be carefully filed, separate from other papers.

EMOLUMENT RETURNS.

807. Clerks are required to make to the Attorney General, in such form as he may prescribe, semiannual returns covering the first and the last six months of each calendar year, respectively, of all amounts received for services in any way connected with the clerk's office during the period covered, and all amounts earned, whether received or not received. (See sec. 833 R. S. U. S., and 32 Stat. L., 475.)

NOTE.—No amount in excess of \$1 may be received from any attorney in connection with his admission to practice. This amount is regarded as also covering the issuance of a certificate of admission if required.

808. Every clerk shall, at the time of making his emolument return, deposit to the credit of the Treasurer any surplus over and above his compensation and authorized expenses. (See sec. 844 R. S. U. S.)

809. The first return will include the day upon which the clerk assumes duties. The last return will terminate with the day previous to the day upon which his successor assumes duties.

810. In case of the death of a clerk, the returns should be rendered in his name until his successor assumes duties. They should be prepared by the chief deputy, or some other person having knowledge of the facts.

811. Mileage is not a fee, and the clerk should not charge himself therewith. It should be reported, as indicated by the forms.

812. It is unlawful to include in an emolument return fees not actually earned and due prior to the close of the period covered. (See 28 Stat. L., 956.)

813. All the information contemplated by Forms 119-A, 120-A, 131-A, 153-A, and 168-A is essential and must be furnished. If there are no earnings to be reported on a given form it should, nevertheless, be included with the return, with a statement of this fact thereon. Where there are divisions in a district, the earnings in each should be separately reported. The footing of each column on the forms should be carried to the top of the next.

814. Exact duplicates of emolument returns, including the schedules of earnings, should be retained by the clerk.

815. Fees for making copies of declarations of intention and certificates of naturalization must be accounted for in the regular emolument returns. (See 15 Comp., 289.) For the proper fees see paragraph 844 (*h*), (*i*), and (*n*).

816. Emolument returns must be verified by affidavit, before an officer authorized by law to administer oaths generally.

EMOLUMENT RETURNS OF CLERKS OF UNITED STATES CIRCUIT COURTS OF APPEALS.

817. Clerks of United States circuit courts of appeals are required to make a return to the Attorney General, annually, of all fees and emoluments of their offices. Such return shall cover all fees and emoluments earned during the preceding year; necessary office expenses for such year, including clerk hire and compensation of the clerk (in addition to an annual salary of \$3,500, payable monthly by the marshal from the appropriation entitled, "Salaries Circuit Courts"), not to exceed \$500 per annum. (See 31 Stat. L., 639.)

OFFICE EXPENSES OF CLERKS OF DISTRICT COURTS.

818. Authority should be procured from the department before any expense (other than that for telegrams and long-distance phone calls) is incurred. Charges for expenses not previously authorized are subject to disallowance.

819. If in an emergency an expense is necessarily incurred without authority, application, accompanied by full explanation of the emergency, should be made at once for permission to include said expense in the emolument return.

820. On June 1 and December 1 of each year clerks should make application to the department for authority to purchase supplies (including blank forms, stationery, etc.), needed for official purposes during the six months beginning July 1 and January 1, respectively.

821. Such applications, prepared on Form 25-A, should be accompanied by competitive bids, unless this course is manifestly impracticable. Failure to submit bids must be explained in each instance.

822. When bids are solicited competitors should be furnished with definite and identical information upon which to base proposals.

823. The department will, from time to time, suggest the names of Government contractors who can supply staple articles at special rates. Clerks should then obtain quotations from the firms suggested and report results to the department.

824. On December 1 of each year clerks should make application to the department for authority to incur the following items of expense (should they be considered necessary) during the calendar year beginning January 1:

(a) Clerk hire and payment of deputies.

The application must state the following:

(1) Name of each deputy clerk and clerical assistant.

(2) Location of each.

(3) Proposed rates of compensation.

(4) Whether any of them are employed in any other capacity.

(5) What deputies or assistants, if any, are rendering services in connection with naturalization proceedings; what portion of their time is devoted to that work; and what payments, if any, are made to them from naturalization earnings.

(b) Telephone service. (State monthly or annual rate of rental; whether main or extension stations are needed; whether service will be required for the entire year or only for a limited period.)

(c) Post-office box rent. (State monthly, quarterly, or annual rate of rental.)

(d) Traveling expenses of deputy clerks. (State number of trips to be made; destinations, etc.)

825. Clerks, on authority of the department, may exchange typewriters, adding machines, and other similar labor-saving devices in part payment for new machines to be used for the same purpose. (See 38 Stat. L., 1161.)

826. Itemized and receipted original vouchers for office expenses must accompany emolument returns. Such vouchers must represent only payments actually made before the return is rendered. Reference should be made on each voucher to the date of the authorization from the department.

827. Vouchers should be numbered consecutively and accompanied by an abstract.

828. When charges are made for toll calls, a statement of tolls (usually furnished by the telephone company) should be attached to the voucher. The clerk's certificate to the effect that the calls were necessary and on official business connected with the clerk's office should also be attached.

829. When charges are made for telegrams, copies must be attached to the voucher. The clerk's certificate should also be attached, setting forth that the telegrams were actually sent, as stated, on official business connected with the clerk's office, at Government rates, and that they were necessary to the proper transaction of public business.

830. The cost of telegrams relative to the business of the court is not properly chargeable as an office expense, but is payable by the marshal.

EXPENSE ACCOUNTS OF DEPUTY CLERKS.

S31. Authority must be procured from the department before any expense is incurred by a deputy, incident to his attendance on court while away from headquarters. (See par. S24 (d).)

S32. The account must be itemized and supported by subvouchers and affidavit. It must show the amount expended for each day's lodging and subsistence. The expenses are on a daily basis and are not cumulative. The daily expense commences with breakfast and ends with lodging.

S33. When charge is made for berth or chair, on the train, the "passenger's check" or memorandum slip should be attached to the account.

S34. Cab hire will be allowed only if shown to be necessary.

S35. Fees to waiters and expressmen, and laundry, will be allowed as set forth in paragraph 670.

S36. Porterage (when not prohibited by State law) not exceeding 25 cents per night for sleeping car or 15 cents for parlor car will be allowed.

BANKRUPTCY.**GENERAL INSTRUCTIONS.**

S37. Clerks shall respectively (1) account for, as for other fees received by them, the clerk's fee paid in each case and such other fees as may be received for certified copies of records which may be prepared for persons other than officers; (2) collect the fees of the clerks, referee, and trustee in each case instituted before filing the petition, except the petition of a proposed voluntary bankrupt which is accompanied by an affidavit stating that the petitioner is without, and can not obtain, the money with which to pay such fees; (3) deliver to the referees upon application all papers which may be referred to them, or, if the offices of such referees are not in the same cities or towns as the offices of such clerks, transmit such papers by mail, and in like manner return papers which were received from such referees after they have been used; (4) and within 10 days after each case has been closed pay to the referee, if the case was referred, the fee collected for him, and to the trustee the fee collected for him at the time of filing the petition. (See 30 Stat. L., 558.)

NOTICE TO PARTIES NOT TO APPEAR.

S38. A clerk who, by an order of court, made and sent to the parties in bankruptcy cases certified copies of an order notifying them not to appear at the regular term of the court to which they had been notified to appear, but at a special term to which the court had been adjourned, is not entitled to separate fees for this service. (See 6 Comp., 900.)

NOTICES OF FINAL DISCHARGE.

839. Where a clerk collects an amount fixed by the court for sending out a notice in bankruptcy, he must account for the full amount thus collected, without deduction on account of expense of sending the notice, such expense being subject to approval and audit, as are other expenses of the clerk's office. (See 18 Comp., 731.)

COMMISSIONS.

840. Where a clerk is allowed by the court a percentage of composition funds in bankruptcy cases as compensation for his services in handling such funds, he must account for all amounts thus received in the same manner as for other fees and emoluments of his office. (See 18 Comp., 731.)

FILING FEE.

841. The filing fee of the clerk in bankruptcy proceedings is earned when the petition is filed and should be accounted for as of such date, and where a petition is filed without the affidavit of inability to pay fees it is the duty of the clerk to collect the fees before the filing, and if he fails to do so he must account therefor whether he subsequently collects or not, and the subsequent filing of the affidavit will not relieve the clerk of his liability to account. (See 14 Comp., 210.)

PARTNERSHIP PROCEEDING.

842. Where, in connection with a partnership proceeding a separate petition is filed by any individual member of the partnership for adjudication in bankruptcy of his estate as separate from the partnership adjudication, the clerk shall collect and account for the filing fee from such individual, in addition to the filing fee for the partnership, except where he is prohibited from collecting separate fees by the action of the court exercising jurisdiction in the case, or where the proceeding is *in forma pauperis*. (See 15 Comp., 249.)

PAUPER CASES—FEES SUBSEQUENTLY COLLECTED.

843. The clerk's filing fee on the petition of a voluntary bankrupt who makes the poverty affidavit provided for by section 51 of the bankruptcy act is earned, due, and payable when the petition is filed, and if subsequently collected by the clerk must be returned and accounted for as of the date of the filing of the petition. (See 20 Comp., 759.)

POOR SUITORS.

843a. The poor suitor's oath relieves from the prepayment of fees and costs only the individual who takes it. Earnings from other parties must be accounted for in such cases. If the poor suitor prevails, earnings for services in his behalf should then be collected and accounted for.

FEES.**FEE BILL.**

844. Clerk's fees are prescribed by section 828, R. S. U. S., which is as follows:

(a) For issuing and entering every process, commission, summons, *capias*, execution, warrant, attachment, or other writ, except a writ of *venire* or a summons or subpoena for a witness, one dollar.

(b) For issuing a writ of summons or subpoena, twenty-five cents.

(c) For filing and entering every declaration, plea, or other paper, ten cents.

(d) For administering an oath or affirmation, except to a juror, ten cents.

(e) For taking an acknowledgment, twenty-five cents.

(f) For taking and certifying depositions to file, twenty cents for each folio of one hundred words.

(g) For a copy of such deposition furnished to a party on request, ten cents a folio.

(h) For entering any return, rule, order, continuance, judgment, decree, or recognition, or drawing any bond, or making any record, certificate, return, or report, for each folio, fifteen cents.

(i) For a copy of any entry or record, or of any paper on file, for each folio, ten cents.

(j) For making docketts and indexes, issuing *venire*, taxing costs, and all other services on the trial or argument of a cause where issue is joined and testimony given, three dollars.

(k) For making docketts and indexes, taxing costs, and all other services in a cause where issue is joined but no testimony is given, two dollars.

(l) For making docketts and indexes, taxing costs, and other services in a cause which is dismissed or discontinued, or where judgment or decree is made or rendered without issue, one dollar.

(m) For making docketts and taxing costs in cases removed by writ of error or appeal, one dollar.

(n) For affixing the seal of the court to any instrument, when required, twenty cents.

(o) For every search for any particular mortgage, judgment, or other lien, fifteen cents.

(p) For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

(q) For receiving, keeping, and paying out money in pursuance of any statute or order of court, one per centum on the amount so received, kept, and paid.

(r) For traveling from the office of the clerk, where he is required to reside, to the place of holding any court required by law to be held, five cents a mile for going and five cents for returning, and five dollars a day for his attendance on the court while actually in session.

845. Section 52 of the act of July 1, 1898 (see 30 Stat. L., 559), provides:

Clerks shall respectively receive as full compensation for their service to each estate a filing fee of ten dollars, except when a fee is not required from a voluntary bankrupt.

DECISIONS RELATING TO FEES GENERALLY.**FEES MATTERS OF STRICT LAW.**

846. Fees allowed to public officers are matters of strict law, depending upon the very provisions of the statute. They are not open to equitable construction by the courts nor to any discretionary action on the part of officials. (See *U. S. v. Shields*, 153 U. S., 88, p. 91.)

SERVICES PERFORMED UNDER ESTABLISHED PRACTICE.

847. A practice of the court established or directly sanctioned by the judge has the same force and effect as a rule of court, and the clerk of a court acting thereunder is entitled to fees for the services rendered necessary by such practice. (See 2 Comp., 217.)

"PRACTICE" NOT "RECOGNIZED."

848. A practice of a court under which the clerk performs services which are neither necessary nor required by law is not such "recognized practice" as requires the allowance of fees for such services. (See 9 Comp., 113.)

SET-OFFS IN ACCOUNTS.

849. A clerk of court is not entitled to credit in the settlement of his accounts for amounts short-charged by him as a set-off, either against overcharges for services of the same class or against amounts disallowed, the items short-charged never having been presented to and approved by the court, as required by law. (See 6 Comp., 382.)

WHERE COMPENSATION NOT PROVIDED BY LAW.

850. A clerk of court is not entitled to compensation for services performed under an order or rule of court unless compensation for such services is provided for by law. (See 7 Comp., 272.)

SERVICES ON BEHALF OF DEFENDANT IN CRIMINAL CASE.

851. For services rendered on behalf of the defendant in a criminal case other than those performed under section 878, Revised Statutes, the clerk of the United States court is not entitled to fees from the Government. (See 2 Comp., 221.)

MAKING DUPLICATE ACCOUNTS.

852. Clerks of courts are not entitled to folio fees for making duplicate accounts, such accounts not being records within the meaning of section 828, Revised Statutes. (See 7 Comp., 726.)

FEES CHARGED INDIVIDUAL LITIGANTS.

853. The Comptroller of the Treasury has no jurisdiction in advance of the settlement of an account to render a decision upon the question of the fees to which a clerk is entitled for services performed by him for individual litigants. Where the question is one of the proper taxation of fees against an individual litigant in the court such question is not one which the accounting officers are authorized to decide. (See 18 Comp., 543.)

ACKNOWLEDGMENTS.

854. Only one fee will be allowed for taking the acknowledgment of defendant and sureties, unless it is made to appear that it was necessary to take them separately. (See 147 U. S., 695.)

BONDS.

855. A clerk is not entitled to fees from the United States for preparing the official bonds of the various officers of the court. (See 140 U. S., 169.)

CALENDARS.

856. A clerk is not entitled to folio fees for making calendars for the judge, district attorney, and clerk. (See 11 Comp., 329.)

CERTIFICATES.

857. It is not required that the copy of a subpoena in chancery served on a defendant under the general equity rules shall be certified, and the clerk is not entitled to fees for certificates and seals to such copies, unless required by rule of court or a practice directly sanctioned by the court. (See 2 Comp., 342.)

858. Where a restraining order directs that the marshal serve the defendants with a certified copy thereof, the clerk is entitled to fees for certificates to the copies, but not for seals to such certificates. (See 2 Comp., 342.)

CITATIONS.

859. As a marshal can serve process in any county in his district, but one original citation in seire facias cases is necessary, and a clerk is not entitled to fees for issuing several original citations under the State practice requiring separate citations. (See 3 Comp., 419.)

COMMISSIONS.

860. In order to entitle a clerk to the commission provided by law for "receiving, keeping, and paying out money in pursuance of any

statute or order of court," the money must actually pass through his hands. (See 15 Comp., 354.)

COPIES.

861. Clerks are entitled to fees for making copies, as follows:

(a) Of orders approving accounts to be forwarded to the department. (See 147 U. S., 672.)

(b) Of indictments furnished defendants, when ordered by the court to be made at the expense of the United States, but not otherwise. (See 7 Comp., 219.)

(c) Of subpoenas, when ordered by the court to be made. (See 140 U. S., 169.)

COSTS.

862. A clerk who has paid into the Treasury the costs taxed against the defendant in a case where the Government is the plaintiff can not demand repayment from the United States of the sum taxed as his fees. (See 2 Comp., 418.)

DOCKET FEES.

863. The docket fee of \$3 covers the entry of the case upon the docket, indexing the same, making contemporaneous minutes and entries upon the docket or calendar, and such other incidental services as are not covered by other clauses of the statute. (See 140 U. S., 169.)

864. A clerk's right to a docket fee as upon issue joined attaches at the time issue is in fact joined, and is not lost by the subsequent withdrawal of the plea which constituted the issue, and this rule applies to cases in which, after issue is joined, the case is discontinued or nolle pros entered. (See 164 U. S., 49.)

865. When several persons are indicted under one indictment, an order of court granting separate trials makes independent causes and entitles the clerk to separate docket fees under paragraph 10 of section 828, R. S. U. S. (See 204 U. S., 562.)

866. A clerk is not entitled to a docket fee—

(a) Until the case is finally disposed of as to all defendants. (See 147 U. S., 692.)

(b) When no indictment has been found. (See 147 U. S., 687.)

(c) In proceedings to remove a prisoner to another district for trial. (See 147 U. S., 676.)

ENTRIES.

867. A clerk is not entitled to folio fees—

(a) For making docket entries. (See 6 Comp., 382.)

(b) For entering an order or making a record where the only service performed is the filing of a paper in his office. (Id.)

868. A clerk is entitled to a fee of 15 cents per folio for making entries in a separate cash book which he keeps by direction of the Attorney General as a record of moneys received from the marshal and deposited in the Treasury, as required by section 6 of the act of May 28, 1896. (See 3 Comp., 616.)

FILING.

869. A clerk is entitled to fees for filing—

(a) Separate papers sent up by commissioners in criminal cases. (See 140 U. S., 169.)

(b) Marshals' duplicate accounts, with the vouchers attached, but not for filing each voucher. (See 147 U. S., 672.)

(c) Bank certificates of deposit, for fines paid, to the credit of the Treasurer of the United States. (See 164 U. S., 49.)

870. A clerk is not entitled to fees for filing—

(a) Orders of the United States attorneys to discharge witnesses. (See 147 U. S., 695.)

(b) Separate orders for the payment of jurors and witnesses. (See 147 U. S., 676.)

(c) Exhibits temporarily in his custody. (See 14 Comp., 598.)

FINAL RECORDS.

871. A clerk is entitled to fees for recording, after the determination of prosecution, all the proceedings relating to it, including the order of commitment. (See 147 U. S., 672.)

872. A clerk is not entitled to a fee for entering in final record proceedings before a committing magistrate, as, although they may properly be filed and a fee charged for filing, they form no part of the record. (See 147 U. S., 676.)

873. The rule in *United States v. King*, that proceedings before a committing magistrate form no part of the final records, applies to affidavits. (See *U. S. v. Taylor*, 147 U. S., 695.)

874. A clerk is not entitled in computing the folios in a final record to treat each document, judgment, etc., as a separate instrument, but should count the folios of the record as one instrument continuously from beginning to end. (See *U. S. v. Kurtz*, 164 U. S., 49.)

HABEAS CORPUS PROCEEDINGS.

875. A clerk of a court is not entitled to fees from the United States for services in habeas corpus proceedings rendered at the request of the person applying for the writ. (See 2 Comp., 220.)

LIST OF JURORS.

876. When a list of jurors with their residences is required to be made by the order or practice of the court, and to be posted up in the

clerk's office or preserved in the files, and no other mode of compensating the clerk is provided, it may be charged for by the folio. (See 164 U. S., 49.)

MILEAGE.

877. If the court sits for any number of days in succession, the clerk should continue in attendance, but if the court is adjourned over one or more intervening days he is not obliged to remain at the place of holding court, but may return to his home and charge travel for going anew to attend the term at the day to which it is adjourned. (See *U. S. v. Harmon*, 147 U. S., 268.)

878. A clerk is not entitled to mileage—

(a) For travel in going home on Saturday when the court is adjourned over Sunday. Sunday is a nonjudicial day which does not interrupt the continuity of the term of court. (See 153 U. S., 88.)

(b) For travel made by his deputy to attend court. (See 5 Comp., 886.)

(c) For travel from his place of residence to the place of holding court when the sole purpose of the travel is to draw juries. (See 12 Comp., 573.)

(d) For travel to attend court at a place where he has a deputy, when the only service to be performed is the entry of an order adjourning the court to a future day, of which order he has notice before the travel was made. (See 12 Comp., 360.)

OATHS.

879. A clerk is entitled to the fee for administering the oath to a bailiff in charge of a jury, such oath not being the oath of office. (See 8 Comp., 479.)

880. A clerk is not entitled to fees from the United States for administering oaths of office to deputy marshals, jury commissioners, bailiffs, district attorneys, or their assistants, the oaths being properly chargeable to the officers sworn. (See 140 U. S., 169.)

881. A clerk is not entitled to fees for administering oaths to witnesses on behalf of non-indigent defendants, i. e., where said witnesses have not been subpoenaed under the provisions of section 878 R. S., U. S. (See 14 Comp., 222.)

882. The authority conferred by the act of May 28, 1896, upon clerks of courts to administer oaths extends to their deputies. (See 7 Comp. MS., 672.)

PER DIEMS.

883. A clerk is entitled to per diem compensation—

(a) For attendance on court at each of two or more places in the district when he personally attends at one place and by deputy at the others. (See 147 U. S., 676.)

(b) When the court has met and been opened and adjourned by the judge for one day or for more than one day successively and then adjourned by written order of the judge from day to day for any number of days so ordered. (See 147 U. S., 669.)

(c) For attendance on court on a day on which business was "transacted by clerk under orders of the judge," although the business transacted is the entry of orders made by the judge at another place and sent to the clerk. (See 8 Comp., 848.)

(d) For attendance on court on days when the court is opened by the judge for business, although no business is actually transacted. (See 4 Comp., 161.)

(e) For referring voluntary bankruptcy petitions to the referee in the absence of the judge. (See 212 U. S., 275.)

884. A clerk is *not* entitled to per diem compensation—

(a) For services in selecting juries in connection with the jury commissioner. (See 147 U. S., 676.)

(b) When the only service performed, in the absence of the judge, is the filing and entering returns on writs and the filing of papers. (See *Hyams v. U. S. Ct. Cls.*, No. 31115.)

(c) When the only business transacted, in the absence of the judge, is the filing of naturalization papers. (See 18 Comp., 921.)

RECOGNIZANCES.

885. Recognizances may be taken either in open court, in which case a record entry is made of the fact upon the journal, or by a separate instrument signed and acknowledged before a proper officer. In the one case the clerk is entitled to a fee for making the entry, and in the other for drawing and filing the recognizance (see *U. S. v. Barber*, 140 U. S., 164, 166, par. 3), but not for both. (See *U. S. v. Payne*, 147 U. S., 687.)

886. A clerk is not entitled to charge for taking separate recognizances of witnesses in criminal cases unless witnesses could not be conveniently recognized together. (See 147 U. S., 676.)

RECORDS.

887. The act of February 6, 1889, allowing to a defendant as of right a writ of error to the Supreme Court in capital cases, without security for costs, and making it the duty of the clerk to certify up the record, does not authorize the clerk to charge against the United States fees for such services. (See 2 Comp., 612.)

SEALS.

888. A clerk is entitled to the fee for affixing the seal to the certified copy of an order appointing a United States commissioner fur-

nished the appointee, such appointee not having been an officer until he accepted his appointment. (See 8 Comp., 479.)

889. A clerk is not entitled to the fee for affixing the seal to—

(a) A certificate of the clerk which is for use of officers of the court only. (See 6 Comp., 540.)

(b) A copy of an order of court where the order itself directs a “certified” copy only. (See 6 Comp., 900.)

(c) Original writs, the seal being a component part of the writ for the issuance of which a fee is provided. (See 8 Comp., 479.)

SEARCHES.

890. In the absence of a rule or order of court to the contrary, a clerk may properly charge a fee of 10 cents for filing a requisition for a search, 15 cents for making the search, 15 cents per folio for the certificate, and 20 cents for the seal, when the seal is required to be affixed. (See 18 Comp., 947–949.)

PRINTING BRIEFS, RECORDS, COURT CALENDARS, ETC.

891. Not later than June 1 of each year clerks will confer with district attorneys and solicit competitive bids for—

(a) The printing of briefs and records for the approaching fiscal year.

(b) The printing of court calendars, bar dockets, trial and jury lists for the approaching fiscal year.

NOTE.—The instructions contained in section (b) of the above paragraph apply only to those districts where it is *customary* to provide calendars, etc., for distribution.

892. Bidders should have definite and identical information upon which to base proposals. The rates per page to be charged for briefs, records, calendars, etc., must be separately stated.

893. All bidders must offer in writing to comply with the provisions of the act of June 19, 1912. (See 37 Stat. L., 137.) Bids which do not contain this offer will not be considered.

894. The bids submitted should be transmitted to the department with proper recommendations for authority to award the contract for the year's work. The award of the contract, however, does not ordinarily convey any authority to have calendars, briefs, or records printed. Applications for such authority must be made in the usual manner on Form 25-B, by the clerk as to calendars, bar dockets, etc., and by the district attorney as to records and briefs, in each particular case as the necessity arises.

VOUCHERS.

895. Form 324, entitled "Voucher for purchases and services other than personal," should be used for bills for printing calendars, briefs, records, etc. Payment will be made by the marshal from the appropriation "Miscellaneous Expenses, U.S. Courts," covering duly authorized expenses, set forth on properly prepared and certified vouchers.

RECORDING AND REPORTING APPOINTMENTS, ETC., OF COMMISSIONERS.

(See also pars. 953 to 959, Instructions to Commissioners.)

896. Appointments of commissioners must be entered of record by the clerk of the district court, and notice furnished at once by the

clerk to the Attorney General. In reporting appointments or reappointments, clerks should state—

- (a) The full name of the appointee.
- (b) The date of the order of appointment.
- (c) The date the appointment became effective.
- (d) The date the appointee executed the oath of office.
- (e) The official residence of the appointee.

897. In reporting resignations or removals, the clerk should state definitely when they become effective. "At the close of" (giving the date) is the form to be observed.

898. Certificates or seals to notices of the appointment of commissioners, copies of orders of appointment, or copies of their oaths of office are not required. Fees therefor will not be allowed.

MISCELLANEOUS MATTERS.

899. Clerks should ordinarily forward process direct to the marshal. If, however, immediate service is necessary, it may be delivered to a deputy marshal.

900. Clerks should furnish the Department of Justice and the Auditor for the State and Other Departments with copies of rules of court, when printed, and copies without seals of new rules or amendatory orders.

901. Fees will be allowed for issuing executions and subpœnaing witnesses on behalf of the United States only when the accounts show affirmatively that they were issued either—

- (a) Upon the written request or præcipe of a United States attorney.
- (b) In obedience to an order of court.
- (c) Upon request made by a grand jury.

902. Witnesses on behalf of the United States shall be subpœnaed to testify generally, and not to depart without leave. Under such

process they shall also appear before the grand or petit jury, or both, as may be required. (See sec. 877, R. S. U. S.)

903. It is the duty of the clerk to insert the names of as many witnesses in a given subpoena as convenience in serving will permit. (See sec. 829, R. S. U. S.)

904. If subpoenas are to be sent out of the district, they should show upon their face whether they were issued in civil or criminal causes or for appearance before the grand jury. (See sec. 876, R. S. U. S.)

905. It is the duty of clerks to transmit the original accounts of marshals (as well as their own accounts) to the Attorney General for examination, and retain the duplicates, which shall be open to public inspection. Such accounts should be forwarded *immediately after approval*. (See 18 Stat. L., 333, and 28 Stat. L., 210.)

906. Clerks must certify to marshals abstracts of payments to jurors and witnesses. But one certificate is required for each complete list for a term of court, included in one account. The seal of the court is unnecessary. (See pars. 482 to 486.)

907. Clerks will not be allowed fees for furnishing district attorneys with copies or transcripts of entries covering data which, under these instructions, should be available from the records of the attorney's office.

908. Articles purchased from emoluments are the property of the Government, and must be accounted for accordingly.

909. The records of a district court shall be kept at the place where the court is held. When it is held at more than one place in any district and the place of keeping the records is not specially provided by law, they shall be kept at either of the places of holding the court which may be designated by the district judge. (See 36 Stat. L., 1088.)

909a. It is urged that, in any kind of an action, where not inconsistent with a rule of court, bonds or stipulations for costs, or for the release of vessels or other property, be so drawn as to bind the obligors specifically for the payment in any event of the fees and expenses of court officers for services in their behalf.

SEAMEN'S WAGE CASES.

909b. (a) Every seaman *who is a citizen of the United States* is entitled to the benefit of the poor suitor's act (36 Stat. L., 866) upon taking the oath therein prescribed. If he files such oath and prevails in his action, your earnings should then be collected and accounted for.

(b) If the seaman is *not* a citizen of the United States or, being such, fails or declines to take the poor suitor's oath, clerks should,

except where a rule of court expressly prevents such practice in seamen's wage cases, require an advance deposit, bond, or stipulation from the seaman or in his behalf to cover your lawful earnings, as in ordinary civil cases between private litigants.

(c) If a rule of court relieves the seaman from furnishing a stipulation for the payment of *costs awarded against him by the court*. It is not regarded as relieving him from the necessity of either taking the poor suitor's oath or furnishing advance deposit or security for the earnings and expenses of officers for services in his behalf.

RECORD BOOKS FOR CLERKS OF COURTS (OTHER THAN THOSE SUPPLIED BY THE DEPARTMENT OF JUSTICE).

910. The cost of books for recording the proceedings of the court is payable by the marshal from the appropriation "Miscellaneous expenses, U. S. courts." They must be purchased *only* after receipt of authority from the Attorney General. Applications should be made upon Form 25-B.

911. Such applications must be accompanied by:

(a) Sample pages of the books.

(b) Bids from two or more reliable dealers.

(c) The certificate of the judge that they "are absolutely necessary for recording the proceedings of the court and come within the purview of section 830, R. S. U. S."

912. Such applications should state:

(a) The nature of the books.

(b) For whose use and for what purposes they are needed.

(Bills should be vouchered on Form 324, entitled "Voucher for services and purchases other than personal.")

913. Separate application should be made in duplicate upon Form 25-A for authority to procure books needed by clerks, other than those furnished by the department and those for recording the proceedings of the court. (See pars. 818 to 823.)

OTHER RECORD BOOKS.

NOTE:—These books should be carefully kept. Corrections should be made by cancellation, never by erasure.

914. In accordance with the provisions of the act of June 30, 1906 (34 Stat. L., 754), the following record books, which should be kept up to date, are prescribed by the Department of Justice and are furnished upon requisition:

- (a) Cash book.
- (b) Civil, criminal, and bankruptcy dockets.
- (c) Fees and expenses of U. S. Marshal.

915. A blotter or day book, and a ledger, the use of which, while desirable in many districts, is optional, are also furnished by the department upon requisition.

CASH BOOK.

916. This is the book of original entry for all cash transactions. Each entry should accurately represent the actual receipt or disbursement of money, excepting that receipts for the earnings of the marshal's office, when exchanged without an actual interchange of money, should be treated as cash.

917. Only the gross amount of marshal's earnings received at any one time for payment into the Treasury need be entered in the cash book. The itemization of such moneys should be made in the book entitled "Fees and expenses of U. S. marshals."

918. The total of each column should be carried continuously from page to page, until the close of business on June 30 and December 31 of each year, at which times the book should be balanced upon its face. Balances may be taken at other times, upon memorandum slips or otherwise, as frequently as may be desired.

919. Each of the specified columns of this book should be used as follows:

(a) Columns entitled "Registry funds." Only for funds deposited under sec. 995, R. S. U. S.

(b) Columns entitled "Clerk's fees and deposits therefor in cases." For moneys received for fees taxable as costs in cases, including the cost of transcripts on appeal, or writs of error, indemnity deposits for notices in bankruptcy cases and fees other than filing fees relating to bankruptcy matters, when taxable as costs in some case or proceeding. Amounts received from the Treasury in payment of the clerk's earnings should also be entered in these columns. Except such amounts all entries in these columns should be posted to the cash accounts in the dockets.

(c) Columns entitled "Clerk's filing fees in bankruptcy." For clerk's filing fees *only*, as indicated by the illustration herein given. These entries should be posted in full to the docket.

(d) Columns entitled "Miscellaneous earnings of clerk." All miscellaneous earnings not covered by other columns, including miscellaneous earnings in bankruptcy, and fees for copies of naturalization papers.

(e) Columns entitled "Naturalizations." All fees prescribed by the naturalization law, that is, fees for first and second papers.

(f) The columns entitled "Moneys not included in other columns." For fees of referees and trustees in bankruptcy, and miscellaneous moneys in which the clerk has no personal interest, contingent or otherwise, as follows:

(1) For fees of referees and trustees in bankruptcy.

(2) For amounts received and paid into the Treasury, covering earnings of the marshal's office. (The total amount received or disbursed at any time should be entered as a lump sum.)

(3) For fines, judgments, etc., collected in United States cases.

(4) For cash bail in cases before United States commissioners and any other moneys not specifically provided for otherwise.

DOCKETS.

920. All fees earned by the clerk in any case except bankruptcy, including fees for final records and transcripts on appeal or writ of error, should be itemized, plaintiff and defendant separately, in the appropriate columns, at the right of the respective entries of proceedings. In the Civil Docket, the money column at the extreme right should be reserved for amounts to be reported in the emolument returns.

921. In the cash accounts, the moneys of plaintiffs and defendants should be entered separately as indicated by the docket form. Such entries should be made by posting from the cash book or be made in the cash book and docket contemporaneously, except where a balance to the credit of a party or attorney in one case is transferred on the docket to the credit of the same party or attorney in another case.

922. It is not necessary to post the receipt and disbursement of registry moneys to the cash accounts in the dockets when a separate ledger is kept for such moneys. While not required, it is exceedingly desirable that such separate ledger be kept.

923. Marshal's earnings, paid by the marshal to the clerk, should not be posted to the cash accounts in the dockets, as there is a separate record for such earnings.

924. In a bankruptcy case, the full amount of the filing fees, including the clerk's fee and the indemnity deposit for notices, should be posted to the docket.

925. When fees are earned from defendants in criminal cases, the half-yearly totals of such fees should be entered in red on the right-hand margin of the Criminal Docket; but where the defendant is relieved by statute from payment of fees, that fact should also be noted in some form at the same place. Moneys received for such fees should appear in the cash account of the case.

Clerk's cash book, United States district court.

RECEIVED.

Date.	From Whom.	For What.	Docket or Record.	Page.	Registry Funds.	Clerk's Fees and Deposits Therefor in Cases.	Clerk's Filing Fee in Bankruptcy.	Miscellaneous Earnings of Clerk.	Naturalizations.	Moneys not included in Other Columns.
Month.	Day									
1915.										
July.	1	Amounts brought forward.	Balances.			\$4,000.00	\$1,736.25			\$1,525.00
"	"	Thomas S. Hodson, Atty.	Deposit.	A-1.	155		25.00			
"	2	Jac. son and Tenson, Attys.	"	L-1.	146		15.00			
"	6	Thos. Y. Jones, Atty.	Filing Fee.	B-1.	133			10.60		20.00
"	17	Charles Eary.	Copy decree, 47 fol.	E-1.	94				5.05	
"	28	G. G. Beddworth, Int.	Fee.	A-1.	155		10			
Aug.	3	Henry L. Keedy, Jr., Atty.	Deposit.	L-1.	140		5.00			
"	5	David Saltz, Int.	Fee.	A-1.	155		10			
"	9	John Wilson.	Fee, Crisfid. Hdwr. Co.	A-1.	155		10			
"	9	Clarence Sterling, Int.	Fee.	A-1.	155		10			
"	18	Conrad J. Irsh.	Second papers.							4.00
"	25	James J. Zegowitz.	First papers.							1.00
"	27	W. L. Stewart, U. S. Mar.	Proceeds of sale.	A-1.	155	206.95				
"	28	W. J. Sterling, Int.	Fee.	A-1.	155		10			
Sept.	7	E. Coke Saker.	Adm. as Atty.						1.00	
"	9	H. P. Keedy, Jr., Atty.	Deposit.	L-1.	140		5.00			
Oct.	12	U. S. Treasury.	U. S. a/c Sept. Qr. 1915.				424.17			
Total.						\$4,206.95	\$2,225.92	\$10.00	\$6.05	\$1,545.00

DISBURSED.

Date.		To Whom.	For What.	Docket or Record.	Page.	Registry Funds.		Clerk's Fees and Deposits Therefor in Cases.		Clerk's Filing Fee in Bankruptcy.	Miscellaneous Earnings of Clerk.	Naturalizations.	Monies Not Included in Other Columns.
Month.	Day.					To Others than Clerk.	To Clerk.	To Others than Clerk.	To Clerk.				
1915.		Amounts brought forward.											
July.	31	Clerk.	Fees	B-1	133					10.00			
"	"	"	Misc. Earnings July								5.05		
Aug.	29	Thos. S. Rodson, Atty.	Per Order Court.	A-1	155	157.04							
"	"	T. S. Rodson, Atty.	Docket Fee	A-1	155	20.00							
"	"	T. S. Rodson, Atty.	Refund Deposit.	A-1	155			25.00					
"	30	A. D. Foster, Atty.	Docket Fee	A-1	155	20.00							
"	"	Clerk	Fees	A-1	155		9.87						
"	"	"	"	A-1	155				50				
Sept.	20	Gans and Haman, Attys	Docket Fee	L-1	146			20.00					
"	20	Clerk	Fees, Phil.	L-1	146				8.20				
"	"	"	Def.	L-1	146				4.30				
"	"	Jackson and Rodson, Attys	Ref'd Lab. Dep.	L-1	146		8.80						
"	"	H. H. Keedy, Jr., Atty.	"	L-1	146		.70						
"	"	Secretary Labor.	A Nat. Fees	"	"						2.50		
"	"	Clerk	"	"	"						2.50		
"	"	"	Adm. Atty.	"	"								
"	"	"	U. S. a/c Sept. Qtr. 1915.	"	"				424.17		1.00		
Oct.	12	"	"	"	"								
Dec.	18	T. Makewell, Ref.	Fees	B-1	133								15.00
"	24	O. A. Holdeu, Tr.	Fees	B-1	133								5.00
"	31	Clerk	Fees to date.	L-1	98				10.15				
"	"	"	"	L-1	114				1.25				
"	"	"	"	E-1	75				4.40				
"	"	"	"	E-1	149				7.85				
"	"	"	"	E-1	152				11.10				
"	"	"	"	A-1	117				9.45				
"	"	"	"	A-1	121				3.25				
"	"	"	"	A-1	132				.25				
"	"	"	Balances.	A-1	132								
						\$1,000.00		\$1,888.55					\$1,525.00
		Total.				\$1,197.08	\$9.87	\$1,741.05	\$484.87	\$10.00	\$6.05	\$5.00	\$1,548.00

926. Amounts received in United States cases, as fines, judgments, etc., and entered in the cash book, should be posted to the cash accounts in the dockets, and entered with appropriate dates in the space for "Proceedings."

927. Criminal cases should be entered in the Criminal Docket only after an indictment or information has been filed. Prior to that time, cases sent up by commissioners may be recorded in a separate book.

928. The additional special pages at the back of each docket should be used when necessary for the continuation of the cash accounts and the entries of proceedings.

RECEIVED.

Date.		From Whom.	For What.	Docket or Record.	Page.	Registry Funds.
Month.	Day.					
1915.						
July	1	Amounts brought forward, Balances.....				\$4,000.00
"	"	Thomas S. Dodson, Atty.....	Deposit.....	A-1.....	155	
"	2	Jackson and Benson, Attys.	"	L-1.....	146	
"	6	Thos. Y. Jones, Atty.....	Filing Fee.....	B-1.....	133	
"	17	Charles Espy.....	Copy decree, 47 fols.	E-1.....	94	
"	28	G. G. Bedsworth, Int.....	Fee.....	A-1.....	155	
Aug	3	Henry L. Keedy, Jr., Atty.	Deposit.....	L-1.....	146	
"	5	David Saltz, Int.....	Fee.....	A-1.....	155	
"	9	John Wilson.....	Fee, Crisld. Tidw. Co..	A-1.....	155	
"	9	Clarence Sterling, Int.....	Fee.....	A-1.....	155	
"	18	Conrad Firsch.....	Second papers.....			
"	25	James J. Zegowitz.....	First papers.....			
"	27	W. L. Stewart, U. S. Mar.....	Proceeds of sale.....	A-1.....	155	206.95
"	28	W. J. Sterling, Int.....	Fee.....	A-1.....	155	
Sept	7	E. Coke Waller.....	Adm. as Atty.....			
"	20	H. H. Keedy, Jr., Atty.....	Deposit.....	L-1.....	146	
Oct	12	U. S. Treasury.....	U. S. a/c Sept. Qr. 1915.			
Total.....						\$4,206.95

926. Amounts received in United States cases, as fines, judgments, etc., and entered in the cash book, should be posted to the cash accounts in the dockets, and entered with appropriate dates in the space for "Proceedings."

927. Criminal cases should be entered in the Criminal Docket only after an indictment or information has been filed. Prior to that time, cases sent up by commissioners may be recorded in a separate book.

928. The additional special pages at the back of each docket should be used when necessary for the continuation of the cash accounts and the entries of proceedings.

Docket No. 155, Adm.

DOCKET.

Title of Case.						Attorneys.					
Nathaniel Gates, jr., and Robert C. Gates, partners, trading as Crisfield Machine Works, v. Gasoline Boat "E. Goldstrom."						Thomas S. Hodson. James U. Dennis. Arthur D. Foster.					
Date.			Plaintiff's Account.	Re- ceived.	Dis- bursed.	Date.			Defend- ant's Account.	Re- ceived.	Dis- bursed.
Month.	Day.	Year				Month.	Day.	Year.			
July.	1	1915	Deposit by Thom- as S. Hodson.	\$25.00	.....					
"	28	"	From G. G. Beds- worth, fees.	.10	.....					
Aug.	5	"	" David Saltz, fees.	.10	.....					
"	9	"	" John Wilson (Cris. Hdw. Co.), fees.	.10	.....					
"	"	"	" Clarence Sterling, fees.	.10	.....					
"	28	"	" W. J. Ster- ling, fees.	.10	.....					
"	29	"	Pd. Thos. S. Hod- son to refund deposit.	.....	\$25.00						
"	30	"	" Clerk, fees.....	.....	.50						
				25.50	25.50						
Abstract of Costs.						Receipts, Remarks, etc.					
To Whom Due.			Amount.								
Libellant:						Pd. direct. Received Aug. 29, 1915. [Signed] T. S. H. (Pd. from reg.) Pd. (\$9.67 pd. from reg.)					
Marshal			\$10.17								
Atty.....			20.00								
Clerk.....			10.17			Pd. direct. Received Aug. 30, 1915. [Signed] A. D. Foster. (Pd. from reg.) Pd. from reg.					
Respondent:											
Marshal			9.67								
Atty.....			20.00			Refunded Aug. 30, 1915. [Signed] T. S. H.					
Clerk.....			.20								
Libet's deposit of.....			25.00								

UNITED STATES DISTRICT COURT.

Date.			Filings—Proceedings.	No. of words.	Clerk's Fees.		Amount Reported in Emolument Returns.
Month.	Day.	Year.			Plaintiff.	Defendant.	
July	1	1915	Libel in admiralty, filed—contract.		\$0.10		
"	"	"	Attachment and monition issued, returnable 16th inst.		2.00		
"	10	"	Attachment returned, endorsed, "Attached the gasoline boat 'E. Goldstrom' and posted monition at Crisfield, Md., July 5, 1915." Attachment filed		.25		
"	28	"	Intervening libel and claim of G. G. Bedsworth & Son for \$141.01 for labor & materials, filed.		.10		
Aug.	2	"	Petition of libellant for sale of vessel and motion for decree of condemnation and sale, filed.		.10		
"			Decree of condemnation and order of sale entered and filed.	567	1.00		
"	5	"	Claim of David Saltz of \$22.93 for supplies furnished, filed		.10		
"	9	"	Claim of Crisfield Hardware Company of \$8.45, materials, etc., filed.		.10		
"	"	"	Claim of Clarence Sterling & Son of \$22.70 for materials & supplies, filed.		.10		
"	18	"	Order of sale returned endorsed, "Served by selling at public auction the gasoline boat 'E. Goldstrom' at Crisfield, Md., Aug. 17, 1915." Order filed		.25		
"	19	"	Petition of libellants for distribution of proceeds of sale filed.		.10		
"	"	"	Order of court setting matter of distribution of proceeds for Aug. 28, 1915, at 3 o'clock p. m., entered and filed.	141	.25		
"	27	"	U. S. marshal's acct. sales showing net proceeds of sale amounting to \$206.95, filed.				
"			(Same day said amount deposited in registry of court)		.10		
"	28	"	Answer of Clarence P. Lankford, trustee in bankruptcy of Frederick B. Hobson, filed.			\$0.10	
"	"	"	Petition of Clarence P. Lankford, trustee, excepting to the allowance of claim of David Saltz, filed.			.10	
"	"	"	Intervening libel and claim of W. J. Sterling of \$43.30 for materials & supplies, filed.		.10		
"	"	"	Decree of court distributing the funds in registry of the court in this case, entered and filed.	428	.70		
			Commission on disbursements.		2.07		
			Docket fee.		3.00		
					10.17	.20	10.37

Docket No. 146, Law.

DOCKET.

Title of Case.						Attorneys.					
Marshall M. Milton v. Samuel B. Loose.						McCormick & Smith. Jackson & Henson, Roanoke, Va. Henry H. Keedy, jr. Gans & Haman.					
Date.			Plaintiff's Account.	Re- ceived.	Dis- bursed.	Date.			Defendant's Account.	Re- ceived.	Dis- bursed.
Month.	Day.	Year.				Month.	Day.	Year.			
July	2	1915	Deposit, J. & H.	\$15.00		Aug.	3	1915	Deposit, H. H. K., jr.	\$5.00	
Sept.	30	"	Pd. clerk, fees.	\$8.20		Sept.	20	"	Deposit, H. H. K., jr.	20.00	
"	"	"	Balance, to J. & H.		6.80	"	"	"	Pd. Gans & Haman, atty's fee.		\$20.00
				15.00	15.00	"	30	"	Pd. clerk, fees.		4.30
						"	"	"	Balance, to H. H. K., jr.		.70
										25.00	25.00
Abstract of Costs.						Receipts, Remarks, etc.					
To Whom Due.			Amount.								
Plf.:											
Atty.			\$20.00			Pd. direct.					
Marshal.			4.22								
Clerk.			8.20								
Witnesses.			17.50								
Deft.:											
Atty.			20.00			Pd. Receipt filed. Pd. direct.					
Marshal.			2.50								
Clerk.			4.30								
Witnesses.			21.00								

Note.—In the foregoing examples the clerk's fees are drawn out only after the cases are closed. It is proper for the clerk to draw his earnings at any time within the limits stated in Par. 947.

UNITED STATES DISTRICT COURT.

Date.			Filings—Proceedings.	No. of Words.	Clerk's Fees.		Amount Reported in Emolument Returns.
Month.	Day.	Year.			Plaintiff.	Defendant.	
July	2	1915	Declaration filed. (Assumpsit—Claim \$20,000).....		\$0.10		
"	"	"	Summons issued, retble 1st Tuesday in August next. Copy to mar.....	415	1.40		
"	17	"	Summons returned and filed. "Summoned Samuel B. Loose, personally, and copy of summons left with him at Edgemont, Washington Co., Md., July 15, 1915".....		.25		
Aug.	3	"	Plea filed.....		\$0.10		
"	12	"	Order of court setting case for trial Sept. 10, 1915, entered and filed.....		.25		
"	14	"	Filing orders for subpoenas.....		.10	.20	
"	"	"	Issuing subpoenas for plff (2) and defendant (3).....		.50	.75	
			Copies of same for service, 2 fol. each, plff (4) dft (5).....		.80	1.00	
Sept.	3	"	Subpoenas returned and filed. See subpoena docket.....		.50	.75	
"	10	"	Jury impaneled and sworn. Trial had. Witnesses sworn, for plff (4) and dft (5).....		.40	.50	
"	13	"	Prayers filed, for plff (4) and dft (8).....		.40	.80	
"	"	"	Defendant's special exceptions to granting plffs prayers filed.....			.10	
"	"	"	Defendant's motion to strike out evidence filed.....			.10	
"	"	"	Balliff sworn.....		.10		
"	"	"	Jury returned verdict for debt for costs. Entered and filed.....		.25		
"	15	"	Judgment on verdict entered.....		.15		
			Docket fee.....		3.00		
					8.20	4.30	12.50

United States district court.

Title of Case.	Attorneys, Referee, and Trustee.	Cash Received and Disbursed.			
		Date.	Name.	Re- ceived.	Dis- bursed.
Case No. 133.		1915.			
In the matter of	Attorneys,	July 6	Thomas Y. Jones.	\$30.00	.....
Charles P. Brown.	Thomas Y. Jones.	" 31	To Clerk.		\$10.00
		Dec. 18	" T. Makewell, Ref..		15.00
		" 24	" O. A. Holden, Tr..		5.00
				30.00	30.00
Voluntary.	Referee, Thomas Makewell. Trustee, Oliver A. Holden.		(a)		

Date.			Proceedings.
Month.	Day.	Year.	
July.....	6	1915	Petition filed. [Etc.]
.....
.....
Dec.....	18	1915	Referee's record filed.

(a) NOTE.—Indemnity deposits for notices should also be posted to this account.

OFFICIAL FUNDS.**PUBLIC MONEYS OF THE UNITED STATES.**

929. Except as otherwise expressly provided by law the gross amount of moneys accruing to the United States, without any abatement or deduction on any account whatever, should be paid into the Treasury. (See sec. 3617 and for exceptions 3618, R. S., U. S.; also 34 Stat. L., 771.)

930. Public moneys accruing to the United States from fines, forfeitures, fees, forfeiture of recognizances or bail bonds given in criminal cases, debts due the United States, including interest thereon, costs in civil and criminal cases, sales of old material, etc., etc. (except as provided in the following paragraphs, or where otherwise specifically provided by law), should be promptly deposited directly with the Treasurer of the United States with full information as to the source of the receipt in each case, including title of suit and its nature.

931. Clerks whose offices are located in the same city with a depository must make deposits daily; otherwise collections should be forwarded for deposit as frequently as they amount to \$1,000, and at the end of each month without regard to the amount accumulated.

932. Moneys collected in cases for violations of internal-revenue laws, including costs, should be paid to the collector of internal rev-

venue for the district in which the case arose, a receipt therefor to be sent to the Commissioner of Internal Revenue. (See sec. 3216, R. S. U. S.) Actions on forfeited recognizances or bail bonds in internal-revenue cases are classed as general civil suits, and collections therein should be deposited as directed in paragraph 930.

933. Moneys collected, including costs, for violation of the following laws, should be paid to the collector or surveyor of customs for the district or port in which the cause arose, and his receipt therefor on Form 14 furnished by the Solicitor should be transmitted direct to the Solicitor of the Treasury:

(a) Customs.

(b) Navigation, including regulation of motor-boat equipment and steamboat inspection.

(c) Smuggling opium.

(d) Immigration and Chinese exclusion laws.

934. One-half of all penalties and forfeitures recovered for violations of law affecting revenues or property of the Post Office Department should be paid on order of court to the person informing and prosecuting for the same, unless a different disposal is expressly prescribed. The remainder of such moneys and all other fines in criminal cases for violation of the postal laws, with costs, also all moneys collected in civil post-office suits and claims should be transmitted directly to the Solicitor of the Treasury by draft or check, made payable to the order of the Treasurer of the United States, accompanied by a report on Form 10. Such moneys will be properly deposited under the direction of the Solicitor, and duplicate certificate of deposit transmitted to the clerk. (See sec. 4059, R. S. U. S.)

935. Promptly upon transmitting to the Treasurer of the United States, or collector or surveyor of customs, moneys which have accrued to the United States, the clerk will make reports on Form 10 to the Solicitor of the Treasury, stating the number, title and nature of the case or cases, the dates of commencement, the statutes violated, and the nature of the collections.

MONEYS PAID INTO COURT.

936. The following legislation covers the disposition of moneys paid into court:

Sec. 995, R. S. U. S. All moneys paid into any court of the United States, or received by the officers thereof, in any cause pending or adjudicated in such court shall be forthwith deposited with the Treasurer, an assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court: *Provided*, That nothing herein shall be construed to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

Sec. 996, R. S. U. S. (as amended by act of Feb. 19, 1897, and the act of Mar. 3, 1911). No money deposited as aforesaid shall be withdrawn except by order of the

judge or judges of said court, respectively, in term or in vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn.

In every case in which the right to withdraw money so deposited has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto it shall be the duty of the judge or judges of said court, or its successor, to cause such money to be deposited in the Treasury of the United States, in the name and to the credit of the United States: *Provided*, That any person or persons or any corporation or company entitled to any such money may, on petition to the court from which the money was received, or its successor, and upon notice to the United States attorney and full proof of right thereto, obtain an order of court directing the payment of such money to the claimant, and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders, and this act is applicable to all money deposited in the Treasury of the United States in accordance with section nine hundred and ninety-six, Revised Statutes of the United States, as amended February nineteenth, eighteen hundred and ninety-seven.

937. Section 99 of the Criminal Code provides a penalty for the failure to properly deposit and handle funds of this character.

938. Money deposited under section 995, R. S. U. S., should be deposited to the *credit of the court*, and not to the credit of the clerk, and can be lawfully drawn from the depositary only as provided under section 996, R. S., U. S., as amended by the act of March 3, 1911.

939. Under the proviso to section 995, R. S. U. S., three conditions must exist concurrently to justify the disposition of such funds other than by deposit with one of the depositaries therein named, namely:

- (a) There must be security furnished.
- (b) An agreement of parties.
- (c) The direction of the court.

940. Moneys, deposited under section 995, the right to which is not in question, which have remained so deposited for five years or longer unclaimed, should be promptly deposited in the Treasury in the name and to the credit of the United States. All such deposits should be accounted for in the quarterly *Report of Deposits*. Specify therein the number and title of the case, and, if possible, the names of the persons entitled thereto and the amount due each. (See 36 Stat. L., 1083.)

WAGES, ETC., OF DECEASED AND DESERTING SEAMEN.

941. Moneys paid into court, as provided by the following sections of the Revised Statutes, should be deposited to the credit of the court with a United States depositary and drawn therefrom only upon order of court:

Sec. 4513, R. S. U. S. Every shipping commissioner in the United States shall, within one week from the date of receiving any such money, wages, or effects of any

deceased seaman or apprentice, pay, remit, or deliver to the circuit court of the circuit in which he resides the money, wages, or effects, subject to such deductions as may be allowed by the circuit court for expenses incurred in respect to such money and effects; and should any commissioner fail to pay, remit, and deliver the same to the circuit court within the time hereinbefore mentioned, he shall incur a penalty of not more than treble the value of such money and effects.

Sec. 4545, R. S. U. S. When no claim to the wages or effects of a deceased seaman or apprentice, received by a circuit court, is substantiated within six years after the receipt thereof by the court, it shall be in the absolute discretion of the court, if any subsequent claim is made, either to allow or refuse the same. Such courts shall from time to time pay any moneys arising from the unclaimed wages and effects of deceased seamen which, in their opinion, it is not necessary to retain for the purpose of satisfying claims, into the Treasury of the United States, and such moneys shall form a fund for, and be appropriated to, the relief of sick and disabled and destitute seamen belonging to the United States merchant marine service.

Sec. 4604, R. S. U. S. All clothes, effects, and wages which, under the provisions of this title, are forfeited for desertion, shall be applied, in the first instance, in payment of the expenses occasioned by such desertion, to the master or owner of the vessel from which the desertion has taken place, and the balance, if any, shall be paid by the master or owner to any shipping commissioner resident at the port at which the voyage of such vessel terminates; and the shipping commissioner shall account for and pay over such balance to the judge of the circuit court within one month after the commissioner receives the same, to be disposed of by him in the same manner as is prescribed for the disposal of the money, effects, and wages of deceased seamen.

NOTE.—All references to the "Circuit Court" in the preceding sections now to be read "District Court."

OTHER MONEYS.

942. All other moneys received, to be held by the clerk as advance deposits for costs or on any other account, *should be deposited to his official credit as clerk* in an entirely separate and distinct account or accounts from private funds or moneys in his possession in any other capacity than that of clerk.

943. Such moneys should, as far as possible, be kept with the Treasurer or an assistant treasurer of the United States, or a regular United States depository.

944. When, in any case, money belonging to a bankrupt estate comes into the official possession of the clerk, it should remain with the depository designated by the court under authority of section 61 of the act of July 1, 1898, until legally disbursed; but moneys deposited with the clerk for his fees and those of the referee and trustee, and the expenses of bankruptcy proceedings, are regarded as not coming within the purview of said section 61, and should be treated in the same manner as deposits for costs in other cases, unless otherwise ordered by the court.

945. All moneys, except amounts received from the Treasury in settlement of the clerk's accounts, should be deposited frequently and promptly in bank and disbursed only by checks. Large sums should not be permitted to accumulate in the clerk's office.

946. This fund, entitled "Other Moneys," must not be drawn upon *directly* for payments to be made for clerk hire, stationery, etc., or for the clerk's personal compensation. Such items should be paid from the money disbursed by the clerk to himself, as directed in the next paragraph.

947. All disbursements from this fund on account of fees and emoluments of the clerk should be as follows:

(a) To the clerk himself and the clerk only.

(b) Covering definitely fees actually earned in specified cases or specific miscellaneous earnings.

(c) Only to the limit of the balance in hand in any case or proceeding.

REPORTS OF OFFICIAL MONEYS.

NOTE.—See sections 5 and 6 of the act of February 22, 1875 (18 Stat. L., 334) and act of March 4, 1911 (36 Stat. L., 1355).

TO THE COURT.

948. Section 798, R. S., U. S., provides that at each regular session of any court of the United States the clerk shall present to the court an account of all moneys remaining therein or subject to its order, stating in detail in what causes they are deposited and in what causes payments have been made. Said account and the vouchers thereof shall be filed in the court.

TO THE ATTORNEY GENERAL.

949. Pursuant to the authority contained in the act of June 30, 1906 (34 Stat. L., 754) each clerk is directed, as soon as practicable after June 30 of each year, to transmit to the Department of Justice a statement of all official moneys in his custody or in the custody of the court at the close of business on said date. This statement should show:

(a) The number and title of each case in which a balance remains and the amount of said balance, also a detailed statement of any other moneys in custody.

(b) The amount on deposit in each banking institution, the *exact* title of each account therein, and the number, date, and amount of each outstanding check.

(c) The amount, if any, of cash on hand.

(d) An explanation of the discrepancy, if any, between the total amount of the balances shown by the report, and the total amount of funds in hand and in bank less the outstanding checks.

950. This annual report should be in substantially the following form:

STATEMENT OF MONEYS IN THE REGISTRY OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA AT THE CLOSE OF BUSINESS JUNE 30, 1915.

<i>Case No.</i>	<i>Title of case.</i>	<i>Date of deposit.</i>	<i>Amount.</i>
1923....	Myers vs. St. Cloud et al.....	Oct. 3, 1909..	\$144.06
1978....	M. A. Jones vs. U. S. Jones et al.....	Jan. 14, 1910..	76.28
2001....	Bumpas vs. Southern Ry. Co.....	Nov. 27, 1912..	100.00
2179....	Birmingham vs. Water Works.....	Nov. 24, 1914..	17,546.17
2238....	Sou. Investment Co. vs. Brown et al.....	Jan. 6, 1915..	719.25
Total.....			18,585.76

Amount on deposit in the First National Bank of Birmingham, a regular United States depository, at close of business on same date, to credit of "United States District Court"..... \$19,121.25

Checks outstanding:

<i>No.</i>	<i>Date.</i>	<i>Amount.</i>
221.....	June 26, 1909.....	\$477.15
401.....	July 15, 1911.....	27.16
487.....	August 4, 1914.....	31.18
		535.49
Balance subject to check.....		18,585.76
Cash on hand.....		0.00
		18,585.76

STATEMENT OF MONEYS OTHER THAN REGISTRY FUNDS IN THE HANDS OF HUGH M. BROWN, CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA, AT THE CLOSE OF BUSINESS JUNE 30, 1915.

CASES OTHER THAN BANKRUPTCY.

<i>Case No.</i>	<i>Title of case.</i>	<i>Amount.</i>
1923....	Myers vs. St. Cloud et al.....	\$13.45
1978....	Jones vs. Jones et al.....	9.15
2238....	Sou. Investment Co. vs. Brown et al.....	2.35
2319....	Cowperthwaite vs. Scullmore.....	11.75
2417....	Donnelly vs. Green et al.....	43.55
2466....	Frankhauser vs. Southern Express Co.....	13.75

DEPOSITS FOR FEES AND COSTS IN BANKRUPTCY CASES.

<i>Name of bankrupt.</i>	<i>Amount.</i>
123.... Joseph C. Sherman.....	5.00
138.... J. C. Brown.....	5.00
149.... Josef Hermann.....	20.00
198.... Alice Springer & Co.....	20.00
299.... Flynn & Daly.....	5.00
407.... Novelty Mfg. Co.....	11.65
Naturalization fees received April 1, 1915, to date.....	38.00
Total.....	198.65

Amount on deposit in the First National Bank of Birmingham, a regular United States depository, at close of business on same date, to credit of "Hugh M. Brown, Clerk U. S. District Court"..... \$205.50

Checks outstanding:

<i>No.</i>	<i>Date.</i>	<i>Amount.</i>
215.....	July 17, 1914.....	\$3.00
321.....	April 5, 1915.....	3.85
		6.85
Balance subject to check.....		198.65
Cash on hand.....		0.00
		198.65

— — — — —, Clerk.

NOTES.—In the schedule of balances of registry funds, amounts of \$144.06 and \$76.28 have been on deposit for more than five years. If the right to withdraw either amount "has been adjudicated or is not in dispute," and it has "remained so deposited

for at least five years unclaimed by the person entitled thereto," it should be brought to the attention of the court for deposit in the Treasury under the act of March 3, 1911 (36 Stat., 1083).

In the same schedule the money covered by outstanding check No. 221 comes clearly within the scope of said act and should be deposited accordingly.

TO THE TREASURER OF THE UNITED STATES.

951. Promptly at the close of each month a report should be mailed to the Treasurer of the United States of the balances of accounts to the credit of the court and clerk with any regular United States depository, in order that, in case of bank failure, the Treasurer may protect such accounts by appropriating the securities in his hands. Such reports should be in substantially the following form:

Statement of funds in custody of court and to official credit of clerk.

* UNITED STATES DISTRICT COURT, ——— DISTRICT OF ———,
—————, 191—

SIR:

I have the honor to report moneys on deposit to the credit of the court and to my official credit as shown by the records of my office at the close of the month of ——— 191—, as follows:

To credit of court:

With ——— National Bank of\$.....
With ——— National Bank of\$.....

To official credit of clerk:

With ——— National Bank of\$.....
With ——— National Bank of\$.....

—————, Clerk.

THE TREASURER OF THE UNITED STATES,
Washington, D. C.

RETIRING CLERK.

951a. When a clerk of court dies or otherwise retires from office, all Government property in his custody, and all moneys in his official custody or deposited to his official credit, should be disposed of as directed in paragraphs 97 to 99 pertaining to United States marshals. See also paragraphs 770, 782, 809, and 810, as to duties of deputies, clerk's compensation and closing emolument return.

ISSUANCE OF APPLICATIONS FOR PASSPORTS.

(See also directions in detail from the Department of State on pages 211 to 213.)

951b. The following are among the rules to be carefully observed in acting upon applications for passports:

(a) One of the clerk's assistants at official headquarters, fully qualified to efficiently perform the service, should be specially

* In a circuit court of appeals this caption should be modified to conform to the facts.

designated to handle all passport matters. Questionable applications at places other than headquarters should be referred to him. His name should be reported to the Department of Justice.

(b) The party introducing the applicant should be personally known to the clerk, or some other official of the court.

(c) It should be ascertained that the passport is being sought for proper ends.

(d) The necessary birth certificate or naturalization certificate should be obtained.

(e) Letters from the heads of the proper business concerns should be obtained from those claiming they are going abroad on commercial business.

(f) The Bureau of Citizenship of the Department of State should be promptly informed when the supply of application blanks is nearly exhausted. All applications should be mailed *directly* from the clerk's office to the Department of State, with full information as to all doubtful cases.

(g) There should be cooperation with the special agents of the Department of Justice. Whenever fraud is suspected the nearest special agent should be immediately informed.

PART FIVE.

INSTRUCTIONS TO UNITED STATES COMMISSIONERS.

NOT APPLICABLE TO OFFICIALS IN ALASKA, PORTO RICO, THE CANAL ZONE, OR THE PHILIPPINE ISLANDS.

SEC. 368, R. S. The Attorney-General shall exercise general supervisory powers over the accounts of district attorneys, marshals, clerks, and other officers of the courts of the United States.

To United States Commissioners (other than in the District of Alaska, Porto Rico, The Canal Zone, and the Philippine Islands):

952. In the execution of your official duties, the instructions herein given will be your guide. They supersede former instructions, become effective June 1, 1916, and remain effective until reissued, excepting in so far as they may be modified from time to time by later legislation, decisions of the courts, or the Comptroller of the Treasury, and departmental circulars.

Respectfully,

THOMAS W. GREGORY,
Attorney General.

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APPOINTMENT.

953. United States commissioners are appointed by the United States district courts. The number of commissioners is determined by the court, which also fixes the official residence. Such appointments are for terms of four years, subject to removal by the court. (See act May 28, 1896, 29 Stat. L., 184.)

954. The same person may not be both commissioner and clerk, or deputy clerk, of a United States court without the approval of the Attorney General.

955. Except as stated in the foregoing paragraph, no civil or military employee of the Government may exercise the duties of a commissioner. (See 29 Stat. L., 184.)

956. Commissioners may not be appointed receivers in any case pending in the courts of the United States.

957. The same person can not legally hold the office of commissioner for two judicial districts at the same time. (See 7 Comp., 230.)

958. Appointments of commissioners purporting to take effect before their dates are inoperative prior to the date when actually made. (See 9 Comp., 167.)

OATH OF OFFICE.

959. Commissioners must take and subscribe to the oath of office prescribed by section 1756, Revised Statutes. This oath should be taken on the day the commissioner assumes duties and filed in the office of the clerk of the district court.

SEAL.

960. Every commissioner must provide for himself an impression seal, 2 inches in diameter, in the following form, substituting, of course, his own name and the district for which he is appointed for those shown in the form.



961. This seal should be used generally in the authentication of official acts of the commissioner, when acting as such. No fees should be charged, however, for affixing said seal.

ACCOUNTS.

PREPARATION OF ACCOUNTS.

962. A single account covering all charges arising against the United States should be prepared within 20 days after the close of each quarter, and transmitted to the district attorney, to be submitted to the court for approval. (See 18 Stat. L., 333, and 28 Stat. L., 207.) There may be extended delay in the settlement of accounts not rendered within the 20 days prescribed by law.

963. The quarters of a fiscal year end September 30, December 31, March 31, and June 30, respectively.

964. Each account should include all charges for services actually rendered during the quarter. When a complaint in a case is drawn in a given quarter and the hearing completed in a later quarter, the charge for each service should, nevertheless, be made in the account for the quarter in which it was rendered.

965. Forms $8\frac{1}{2}$ inches wide by 14 inches long should be used. Only one side of the paper may be used, and only one case should be placed upon a page.

966. Cases should be arranged in chronological order, using the date when each case was instituted as a basis, and a schedule of the cases should be attached.

967. The following descriptive entry (with the blank spaces filled) should precede the first page:

Account of, United States commissioner for the district of, residing at, for the quarter ended, 19...

968. The pages should be numbered consecutively in the lower left-hand corner. The footing of each page should be carried forward to the top of the next page.

969. All of the information contemplated by the following form, which is recommended for use by commissioners, must be supplied in every instance. In cases where a warrant is issued by another commissioner, his name and the date when issued must also be shown.

United States, to, U. S. Commissioner for the District of, Dr.
(If complaint is made by an officer, give title.)

UNITED STATES	}	Complaint made by
		His official title
vs.	}	Offense charged, vio. sec.
		Nature of offense
.....	}	*Complaint approved by U. S. attorney day of, 19...
		Offense committed at
.....	}	On the day of, 19...
		Warrant delivered to for service.
.....	}	Def't arrested at
		..... on, 19...
.....	}	Disposition of case

* Complaints by private citizens in internal-revenue cases must be approved in writing by district attorney before issuance of warrants. As to who are private citizens, see Pars. 981 to 983.

Dates. 19 .	Warrant issued by			Amount brought forward.	
	....., 19.....				
	Drawing complaint, with oath and jurat to same.....				
	Copy of complaint, with certificate to same.....				
	Issuing warrant of arrest, 75 cents.....				
	Entering marshal's return, warrant of arrest.....				
	Issuing subpoena or subpoenas in said case, 25 cents, with 5 cents for each of — witnesses in addition to the first — cents.....				
	Entering return of subpoena.....				
	Drawing temporary bond of defendant and sureties, taking acknowledgment of same, and justification of sureties.....				
	Issuing temporary commitment and making copy of same, \$1.....				
	Entering return of temporary commitment.....				
	Administering oaths to — U. S. witnesses on trial.....				
	Hearing and deciding on criminal charges and reducing the testimony to writing when required by law or order of court.....				
	Drawing final bond of defendant and sureties, taking acknowledgment of same, and justification of sureties.....				
	Issuing final commitment and making copy of same, \$1.....				
	Entering return of final commitment.....				
	Recognizance of all witnesses in the case, defendant being held for court.....				
	Oath to — U. S. witnesses as to attendance and travel, 5 cents each.....				
	Order in duplicate to pay first witness on behalf of U. S., 30 cents, and 5 cents for each of — additional U. S. witnesses, — cents.....				
	Transcript of proceedings required by order of court and transmission of original papers to court.....				
	Copy of warrant of arrest, with certificate to same, defendant being held for court and original papers not sent to court.....				
	Examination and certificate under section 1042, R. S., and all services connected therewith (date of notice to District Attorney —; date of commitment to serve sentence, —, 19—; period of imprisonment named in sentence —; amount of fine and costs, \$ —).....				
	Total fees in case.....				
	Amount carried forward.....				

Remarks:

.....

.....

.....

Page —.

SUPPLEMENTAL ACCOUNTS.

970. A commissioner must include in his regular accounts all fees earned during the period covered by his account, and supplemental accounts will not be considered unless the fees were inadvertently omitted and a satisfactory reason is given for his failure to include the items in his regular account. (See 5 Comp., 511, and 9 Comp., 117.)

FORM OF AFFIDAVIT BY A UNITED STATES COMMISSIONER TO HIS ACCOUNT.

UNITED STATES OF AMERICA,

.....*District of*.....

I,, United States commissioner for the.....district of....., being duly sworn, depose and say that the foregoing account, amounting to \$....., is just and true, as stated therein; that no payment has been received by me on account thereof, and that the services therein charged have been actually and necessarily performed as stated; that in no internal-revenue case mentioned in said account was the warrant issued upon the sworn complaint of a private citizen unless first approved in writing by the United States district attorney, and that in each case wherein two per diems are charged in the account the hearing could not be completed in one day.

.....
United States Commissioner.

Subscribed and sworn to before the undersigned this.....day of....., 19...

971. The signature of a notary public, clerk of State or county court, or other State or county official before whom a commissioner's account is sworn to should be attested by the official seal of the official administering the oath unless such official is not required by law to use a seal in attesting his signature.

972. If the official before whom the account is sworn to is not required by law to have a seal, that fact should be noted on the affidavit.

973. The certificate of the district attorney must be attached to each account containing charges in internal-revenue cases, or cases arising under the Chinese exclusion laws. (Use Amended Form 473.)

APPROVAL OF ACCOUNTS BY THE COURT.

974. The accounting officers of the Treasury are without jurisdiction to consider items in a fee account of an officer of a United States court unless such items are approved by the court. (See 2 Comp., 223.)

975. Where the court does not approve a commissioner's per diems for days to which he had continued cases on trial before him, no fees can be allowed for services rendered necessary by and incident to such continuances. (See 2 Comp., 223.)

976. The disapproval by a court of an item in an account of a commissioner submitted to the court for approval or disapproval, as required by law, is conclusive upon the accounting officers. (See 5 Comp., 131.)

FORM OF ORDER APPROVING AN ACCOUNT OF A UNITED STATES COMMISSIONER, AND CERTIFICATE THERETO.

Whereas....., United States commissioner for the.....district of....., has forwarded an account for his official services for the quarter ended....., 19..., duly certified by oath attached to the account, and the district

attorney has submitted said account for approval in open court, and it appearing to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated; and it being proved to the satisfaction of the court that in each of the cases wherein more than one per diem is charged the hearing could not be completed in one day, two per diems in each of said cases are specially approved and allowed by the court; and whereas the charges in said account appear to be just and according to law, it is ordered that said account, amounting to..... (\$.....), be, and the same is hereby, approved this.....day of, 19...

UNITED STATES OF AMERICA,

.....District of....., ss:

I,, clerk of the U. S. district court for the said district, do hereby certify that the foregoing is a true copy of an order entered upon the journal of said court.

Witness my official signature and the seal of said court, at.....this.....day of....., A. D. 19...

....., Clerk.

By....., Deputy.

FEE BILL.

977 } The act of May 2S, 1896 (see 29 Stat. L., 184), provides:

{ SEC. 21. That each United States commissioner shall be entitled to the following-named fees, and none other:

- (a) Drawing a complaint, with oath and jurat to same, fifty cents.
- (b) Copy of complaint, with certificate to same, thirty cents.
- (c) Issuing warrant of arrest, seventy-five cents.
- (d) Issuing a commitment and making a copy of same, one dollar.
- (e) Entering a return, fifteen cents.
- (f) Issuing subpoena or subpoenas in any one case, with five cents for each necessary witness in a citation to the first, twenty-five cents.
- (g) Drawing a bond of defendant and sureties, taking acknowledgment of same and justification of sureties, seventy-five cents.
- (h) For administering an oath (except to witness as to attendance and travel), ten cents.
- (i) Recognizance of all witnesses in a case, when the defendant or defendants are held for court, fifty cents.
- (j) Transcripts of proceedings, when required by order of court, and transmission of original papers to court, sixty cents.
- (k) Copy of warrant of arrest, with certificate to same, when defendant is held for court, and if the original papers are not sent to the court, forty cents.
- (l) For or in duplicate to pay all witnesses in a case: For first witness, thirty cents, and for each a citation witness, five cents, and for oath to each witness as to attendance and travel, five cents.
- (m) For hearing and deciding on criminal charges and reducing the testimony to writing when required by law or order of court, five dollars a day for the time necessarily employed: *Provided*, That not more than one per diem shall be allowed in a case, unless the account shall show that the hearing could not be completed in one day, when one additional per diem may be specially approved and allowed by the court: *Provided further*, That not more than one per diem shall be allowed for any one day: *Provided further*, That no per diem shall be allowed for taking a bond or recognizance and passing on the sufficiency of the bond or recognizance and the sureties thereon when the bond or recognizance was taken after the defendant had been com-

mitted to prison upon a final commitment, or has given bond or been recognized for his appearance at court, or when the defendant has been arrested on a capias or bench warrant or was in custody under any process or order of a court of record.

(n) For the examination and certificate in cases of application for discharge of poor convicts imprisoned for nonpayment of fine or fine and costs, and all services connected therewith, three dollars.

(o) For attending to a reference in a litigated matter, in a civil cause at law, in equity, or in a admiralty, in pursuance of an order of the court, three dollars a day.

(p) For taking and certifying depositions to file in civil cases, ten cents for each folio.

(q) For each copy of the same furnished to a party on request, ten cents for each folio.

(r) For issuing any warrant under the tenth article of the treaty of August ninth, eighteen hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any parties charged with any crime or offense set forth in said article, two dollars.

(s) For issuing any warrant under the provision of the convention for the surrender of criminals between the United States and the King of the French, concluded at Washington, November ninth, eighteen hundred and forty-three, two dollars.

(t) For hearing and deciding upon the case of any person charged with any crime or offense, and arrested under the provisions of said treaty or of said convention, five dollars a day for the time necessarily employed.

(u) Such commissioners shall keep a complete record of all proceedings before them in criminal cases, in a well-bound book, which record book shall be delivered to and preserved by the clerk of the district court for such district on the death, resignation, removal, or expiration of term of the commissioner, for which record the commissioner shall receive no compensation.

COMPLAINTS.

978. A commissioner is entitled to a fee for drawing a complaint although the paper may not be in fact drawn by him, but by the special counsel for the Government. (See 12 Comp., 299.)

979. A commissioner is entitled to the statutory fee of 50 cents for drawing a complaint or affidavit in connection with the issuance of a search warrant. (See 19 Comp., 798.)

980. A commissioner is not entitled to any fees in cases wherein the complaint upon which the warrant of arrest was issued was not actually sworn to before him or some other officer authorized by law to administer oaths. (See 6 Comp., 147.)

981. A commissioner has no authority to issue a warrant on the complaint of a deputy marshal who arrested a defendant in the act of operating an illicit distillery, the complaint not having been approved by the district attorney before the warrant was issued, and he is not entitled to the fees therefor. (See 4 Comp., 338.)

982. A commissioner is not authorized to issue a warrant of arrest [in an internal-revenue case] upon a complaint made by a deputy marshal or by a storekeeper and gauger without the approval of the district attorney. (See 4 Comp., 448.)

983. Under the act of May 28, 1896, which provides that no warrant of arrest for violations of the internal-revenue laws shall be issued upon the complaint of a private citizen "*unless first approved in writing*" by a district attorney, the issue of a warrant upon a complaint made by a field deputy marshal, which was approved by the district attorney by telephone, even though subsequently reduced to writing, is not authorized. (See 6 Comp., 113.)

COPIES OF COMPLAINTS.

934. A certified copy of the complaint should be attached to a warrant of arrest. Upon the arrest of the accused the return of the warrant, with said copy of the complaint attached, confers jurisdiction upon the commissioner or other qualified judicial officer before whom the accused is brought for hearing, as fully as if the complaint had originally been made before him. (See 28 Stat. L., 416.) A commissioner is not entitled to fees for copies of complaints unless they are actually made and attached to the warrants. (See 6 Comp., 147.)

WARRANTS.

985. The issuance of a warrant implies the delivery of the same to some person authorized by law to serve it and a commissioner is not entitled to fees for preparing a warrant which is not so delivered. (See 4 Comp., 239.)

986. If, in an examination before a commissioner, it is developed that the defendant has committed an offense other than that charged, he may be held for the additional offense without issuing a warrant of arrest therefor. (See 5 Comp., 320.)

937. Warrants of arrest or other writs issued by a commissioner and delivered for service to a person not authorized by law to serve them are not legally issued, and the commissioner is not entitled to fees for issuing them. But if the defendant submits to the jurisdiction of the commissioner without objection, thereby waiving the irregularity, acts of the commissioner subsequent thereto are legal and he is entitled to the fees provided therefor. (See 5 Comp., 863.)

988. A commissioner who hears the case of a defendant brought before him on a warrant illegally issued by another commissioner is entitled to the fees provided by law for his services, unless the fact that the warrant was illegally issued is disclosed upon its face. (See 6 Comp., 304.)

989. Under the laws and regulations for the government of the Navy, a commissioner is not authorized to issue a warrant for the arrest of a deserter from the Navy. (See 6 Comp., 741.)

990. Where a defendant is brought before a commissioner upon a warrant charging him with an offense committed in the district, and

discharged, the commissioner is entitled to fees for issuing a second warrant upon a complaint charging him with another offense. (See 7 Comp., 798.)

991. Inspectors of customs and post-office inspectors are not authorized to execute process, and a commissioner is not entitled to a fee for issuing process to such officers for execution. (See 21 Comp. MS., 241; 18 Comp., 197.)

992. A commissioner is not entitled to fees for issuing more than one warrant for the same defendant at the same time, although the offenses are different. (See 14 Comp., 113.)

993. Commissioners are not entitled to fees for issuing extra warrants or copies thereof where there is but a single charge and a single complaint sworn to against the same defendant, such additional copies being in substance mere copies of the originals, for which no fees are provided by the commissioner's fee bill. (See 16 Comp., 333.)

994. A commissioner is not entitled to fees for issuing a "John Doe" warrant, unless the warrant contains a sufficient description of the defendant to enable the marshal to identify him. (See 16 Comp., 891.)

995. Warrants of arrest for violations of internal-revenue laws may be issued by commissioners upon the sworn complaint of a district attorney, assistant district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen; but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a district attorney. (See 29 Stat., 184.)

996. A commissioner is entitled to the fee of 75 cents for issuing a search warrant. (See Comp. to Attorney General, Jan. 14, 1916, and Comp. to Auditor, Feb. 1, 1916.)

BONDS AND COMMITMENTS.

997. When charges are made for issuing a commitment and for drawing a bond in the same case on the same day, the necessity for the commitment must be shown.

BAIL BOND.

998. A commissioner is not entitled to a fee for taking more than one temporary bond from the same defendant in the same case. (See 10 Comp., 628.)

999. Section 1014 of the Revised Statutes, which provides that the proceedings for the arrest, imprisonment, or bailing of a person charged with an offense against the United States shall be assimilated to the practice under the State statutes, does not relate to the manner in which a forfeited bail bond shall be collected, and a commissioner is not entitled to fees for services rendered in enforcement of payment of such a bond. (See 3 Comp., 595.)

1000. The commissioner before whom a case is pending in connection with which a bond is drawn and who finally passes upon its sufficiency is entitled to the fee of 75 cents for "drawing a bond of defendant and sureties, taking acknowledgment of same and justification of sureties," though the defendant may procure the acknowledgment of the sureties to the bond before another officer. (See 4 Comp., 472.)

COMMITMENT.

1001. A commissioner will not be allowed fees for issuing a temporary commitment for the custody of a defendant for part of a day only, except in extraordinary cases, showing the necessity therefor, as it is ordinarily the duty of the marshal to keep the defendant in custody. (See 2 Comp., 382.)

1002. Only one commitment, either temporary or final, is necessary to commit the defendant for examination or trial, although he is held for two or more offenses. (See 5 Comp., 320.)

1003. Where a defendant who has been arrested on a capias issued by a United States court is brought before a commissioner to give bail, the commissioner is authorized to commit the defendant in default of bail, and if the capias does not contain a mittimus for the defendant the commissioner is entitled to the fee provided by law for issuing the writ. (See 8 Comp., 414.)

1004. When a commissioner has finally committed a defendant for trial, he is without authority to order his removal from one jail and recommit him to another, and he is not entitled to fees for issuing a second commitment for that purpose. (See 9 Comp., 111.)

WITNESSES.

SUBPŒNAS.

1005. A subpoena issued by a commissioner does not run outside of the district of the commissioner who issued it. (See 8 Comp., 276.)

1006. A district court is authorized to issue a subpoena for a witness residing outside of the district of a commissioner to appear before him. (See 9 Comp., 86.)

1007. A commissioner is not authorized to issue a subpoena for a witness residing outside of his district, and a witness attending before a commissioner upon a subpoena issued by him is entitled to mileage for travel within his district only. (See 9 Comp., 121.)

1008. A commissioner is not entitled to fees for issuing subpoenas for defendant's witnesses. (See Comp. MS. in re McDowell, dated Dec. 28, 1906.)

1009. A commissioner is not entitled to fees for issuing subpoenas when same are not delivered to a person authorized by law to serve the same. (See 19 Comp., 592.)

OATHS.

1010. A commissioner is authorized by law to administer oaths generally, and is entitled to the fee of 10 cents therefor. (See 29 Stat. L., 184.)

1011. A commissioner is entitled to the fee of 10 cents for administering an oath to a defendant when he is sworn as a witness in his own behalf. (See 4 Comp., 324.)

1012. A commissioner is entitled to the fee of 10 cents for swearing the defendant in a case arising under the Chinese exclusion act who acts as a witness in his own behalf. (See 5 Comp., 79.)

1013. A commissioner is entitled to fees for administering oaths to defendant's witnesses. (See Comp. MS. in re McDowell, dated Dec. 28, 1906.)

1014. When a witness is once sworn upon the preliminary examination of a case it is not necessary that he be again sworn at an adjourned hearing of the same case. (See 10 Comp., 628.)

1015. A commissioner is entitled to fees for administering oaths to witnesses who attend before him as to their attendance and travel, although such witnesses reside at the place of hearing and said commissioner is cognizant of that fact. (See 18 Comp., 180.)

COMPENSATION, AND PAYMENT OF.

1016. In no case shall the fees of more than four witnesses in the examination of a criminal case before a commissioner be taxed against the United States, unless their materiality and importance are first approved and certified to by the district attorney. (Sec. 981, R. S. U. S.)

1017. A commissioner is not authorized to issue a subpoena for witnesses outside of his district. A witness attending upon a subpoena so issued is entitled to mileage within the commissioner's district only. (9 Comp., 121.)

1018. United States marshals are not authorized to pay the fees of witnesses subpoenaed on behalf of the defendant in Chinese exclusion cases pending before a commissioner. (See 6 Comp. MS., 9.)

1019. Witnesses before commissioners in any district are entitled to only \$1.50 per day for attendance and 5 cents per mile for travel. They are not entitled to double or constructive mileage for attendance in different cases on the same day. (Sec. 848, R. S. U. S., and 35 Stat. L., 377.)

1020. When a witness is detained in prison for want of security for his appearance, he is entitled in addition to his subsistence to a compensation of \$1 per day. (See sec. 848, R. S. U. S.)

1021. A person convicted of crime brought before a commissioner to testify as a witness is not entitled to mileage or fees. (See 9 Comp. MS., 860.)

1022. A person in custody awaiting trial for an alleged offense, attending before a commissioner as a witness, is entitled to the usual fees. (See 6 Comp., 588.)

1023. A witness who attends under subpoena on behalf of the United States before the same commissioner on the same day in two or more cases against different defendants, and is sworn and testifies in each case, is entitled to a separate per diem in each case, but is entitled to only one mileage. (See 14 Comp., 378.)

PAY ROLLS.

1024. Blank forms for pay rolls must be procured by commissioners at their own expense.

1025. These rolls should be on paper $8\frac{1}{2}$ by 14 inches, and in the form shown on page 202. They should be transmitted to the marshal immediately after the close of a case.

1026. Signatures by cross mark must be attested by some person who is not interested in the payment. Neither the commissioner nor the deputy marshal should attest such signatures.

1027. The proper expenses actually and necessarily incurred by deputy collectors of internal revenue, under section 850, Revised Statutes, in attending as witnesses on behalf of the United States upon preliminary examinations before commissioners in internal-revenue cases, in obedience to subpoenas, are payable from the appropriation "Fees of Witnesses, United States Courts." (See 16 Comp., 838.)

1028. Form 2-08, in cases of actual expense witnesses before commissioners, should be attached to the regular commissioners' pay rolls and the amount of such expenses included in the aggregate amount ordered paid by the commissioner.

HEARINGS.

1029. A commissioner is not entitled to a per diem fee for hearing and deciding on criminal charges in the following instances:

(a) When the only action taken is to admit the defendant to bail for appearance before another commissioner for hearing. (See 2 Comp., 281.)

(b) Merely for services rendered under section 1019, R. S. U. S., preliminary to taking new bonds of defendants who had previously given bonds for appearance in court. (See 4 Comp., 465.)

(c) For deciding only, on the second day, a case in which the hearing had been fully completed on the first day. (See 4 Comp., 472.)

(d) Merely for taking bonds of defendants under indictment. (See 18 Comp., 444.)

(e) When the only service was the taking and certifying of depositions. (See Comp. MS. in re Reed, dated Oct. 10, 1914.)

1030. The examination of witnesses is not a necessary condition to a preliminary examination before a commissioner and where a defendant waives examination and is held for trial the "hearing and deciding" is complete. (See 7 Comp., 578.)

CONTINUANCES.

1031. When it is necessary to continue the hearing of a case to another day, the account must show why it could not be completed in one day. Such showing should be made on the page of the account on which the charges in the case appear.

1032. When a per diem is claimed in a case which has been continued from a prior quarter, the account should show the date for which a per diem, if any, has been previously claimed, as well as the necessity for the continuance.

DISCHARGE OF POOR CONVICTS UNDER SECTION 1042, R. S. U. S.

1032a. Accounts containing charges for discharging poor convicts must show clearly the date on which the notice of the filing of the application was transmitted to the district attorney, the date of commitment to serve sentence, the period of imprisonment, if any, named in the sentence, the amount of fine and costs adjudged against the defendant, and the date of discharge. (See Comp. to Atty. Gen., Jan. 28, 1916.)

FORM 84-65-K.
Approved by the Comptroller of the Treasury
November 30, 1907.

OFFICE OF UNITED STATES COMMISSIONER.

Voucher No.

Pay roll of witnesses before commissioner.

Appropriation: "Fees of Witnesses, United States Courts, 19 .."

THE UNITED STATES

PERCUSS

Change
Before
District of United States commissioner for the
....., at

Witnesses' names.	Residence.	Dates of attendance.	Per diem. \$1.50 per day.		Mileage. 5 cents per mile.		Total amount.	We each hereby certify that we are entitled to the amount set opposite our respective names for travel and attendance as witnesses; that our respective claims are correct and just, and that payment therefor has not been received.	Paid by check.
			No. days.	Amount.	Miles.	Amount.			
								Witnesses' signatures.	No.
	miles... of							Attest.	Dated.
	miles... of								
	miles... of								
	miles... of								
	miles... of								
	miles... of								
Total.									

Having sworn and examined the above-named persons, I certify that they attended as witnesses in behalf of the United States in the above-captioned cause and are entitled to the sums set opposite their respective names for attendance and travel as such witnesses, amounting in the aggregate to dollars and cents. It is therefore ordered that the marshal pay said witnesses accordingly this day of 191..

..... U. S. Commissioner.

* Certificate of U. S. district attorney under section 981, R. S. U. S.

I certify that all of the above witnesses were material and important.

..... U. S. District Attorney.

* When more than four witnesses attend before a commissioner in a case, whether they all attend the same day or not, the marshal must not pay the fees of more than four until the district attorney has certified to the materiality and importance of the witnesses, as required by section 981, Revised Statutes.

TRANSCRIPTS.

1033. A commissioner is not entitled to fees for making a transcript of proceedings in the following instances:

(a) In proceedings under the Chinese exclusion acts where defendants have been discharged, notwithstanding they may have been made under a general order of court. (See 8 Comp., 760.)

(b) In Chinese exclusion cases from which no appeal has been taken, notwithstanding the existence of an order of court requiring them. (See 21 Comp. MS., 214.)

(c) In cases wherein the defendant has not been arrested, unless required by rule or order of court. (See 11 Comp., 28.)

(d) Where the only service performed is the taking and certifying of depositions. (See Comp. MS. in re Reed, dated Oct. 10, 1914.)

(e) Where the only services performed were the drawing of affidavits or complaints for search warrants and issuing search warrants. (See Comp. MS. in re Bloodgood, dated July 17, 1914.)

1034. A commissioner is entitled to fees for making a transcript of proceedings in a case where the defendant is discharged as well as in a case where he is held, when the rule of court requiring the transcript, and the practice thereunder, requires the making of the transcript in both cases. (See 2 Comp., 67.)

TRANSCRIPT IN REMOVAL PROCEEDINGS.

1035. When charge is made for making transcript of proceedings in a removal case, the account should show to which court the transcript is sent, i. e., whether to the court in the district to which the defendant is held for removal or to the court in the district in which the commissioner who heard the case is located.

1036. If the transcript in a removal case is sent to the court of the district in which the commissioner who heard the case is located, the commissioner's account should show whether a rule of court exists specifically requiring such action. (See 21 Comp., 685.)

MISCELLANEOUS MATTERS.

ARREST OF DEFENDANT.

1037. When a defendant is brought before a commissioner otherwise than upon a commissioner's warrant, the account should show how the commissioner acquired jurisdiction, i. e., whether under a *capias*, upon surrender of defendant by sureties, or otherwise.

CONSTRUCTIVE FEES.

1038. The act of May 28, 1896, which prescribes fees for services rendered by commissioners, provides that they shall be entitled to the fees therein specified "and none other," and thus prohibits the allowance of all constructive fees. (See 4 Comp., 239.)

CONTEMPT.

1039. The power to punish for contempt is not conferred upon commissioners by law, nor can such power be given by a rule of court. (See 2 Comp., 222.)

DISPOSITION OF PROCESS.

1040. All writs issued by commissioners for service must be sent to the marshal's office to be docketed, and not handed directly to the officer who is to serve the same, except in cases wherein the delay caused by sending the writ to the marshal's office would permit the defendant to escape or would materially increase the expense of the proceedings, or when for some other good reason it is desirable that the writ be served without delay. In such case the emergency must be real, fully shown in the account, and explained in the docket.

INTERPRETERS.

1041. The administration of oaths and the issuing of certificates by a commissioner to interpreters as to their attendance before him are unnecessary, and the commissioner is not entitled to fees therefor. (See 5 Comp., 857.)

JOINT OFFENDERS.

1042. When two or more defendants are charged with having committed an offense at the same time and place, they should be joined in one case and one complaint drawn. If necessary, however, separate warrants of arrest may be issued, in which case the necessity therefor should be shown in the account.

1043. If apparently joint offenders are not actually such, this fact should be affirmatively stated in the commissioner's account.

JUSTICE OF THE PEACE ACTING AS COMMITTING MAGISTRATE.

1044. When a justice of the peace acts as a committing magistrate under the provisions of section 1014, R. S. U. S., he should charge the same fees as commissioners for like services and render his accounts in the same manner and form. (See 20 Comp., 691.)

MANDATES.

1045. There is no provision of law compensating commissioners for issuing warrants or mandates to bring prisoners before them to give bail. (See 9 Comp., 226.)

1046. A commissioner is entitled to the fee of 15 cents for entering a return on a mandate. (See 9 Comp., 226.)

OATHS TO EXPENSE ACCOUNTS.

1047. Under the provisions of the act of August 24, 1912, a commissioner may not charge in his accounts fees for administering oaths to expense accounts. (See Comp. MS. in re Adams, July 3, 1915.)

PENALTY ENVELOPES.

1048. All correspondence which commissioners are required by law to conduct as commissioners may be transmitted in the mails, free of postage, under cover of penalty envelopes.

REFERENCE OF A LITIGATED MATTER.

1049. When fees are charged for attending to a reference in a litigated matter, a copy of the order of reference should be attached to the account.

1050. A commissioner who is appointed by the court as a special referee in a case in which the United States is plaintiff can be allowed only the fee of \$3 a day for "attending to a reference in a litigated matter." (See 4 Comp., 400.) But this does not exclude fees provided by the commissioner's fee bill for other services rendered in the case. (See 5 Comp., 87.)

REMOVAL OF DEFENDANTS.

1051. Sections 1014 and 1029, R. S. U. S., provide a complete mode of procedure for the commitment and removal of an offender committed in a district other than that where the offense is to be tried, and the commissioner of the district to which the offender is removed is not entitled to fees for proceedings had before him, such proceedings being without authority of law. (See 7 Comp., 578.)

1052. (For transcripts in removal proceedings see pars. 1035 and 1036, ante.)

STATE PRACTICE.

1053. Under section 1014, R. S. U. S., which provides for the arrest of certain offenders, it is a well-settled rule that commissioners must conform to the practice prescribed by the statutes of the State wherein the arrest is made, without regard to the fees to be earned by them. (See 5 Comp., 172; also 10 Comp., 340.)

STENOGRAPHER.

1054. If a commissioner employs a stenographer to assist in the taking and transcribing of depositions, testimony, or otherwise, it must be at his own expense.

SURRENDER OF DEFENDANTS BY SURETIES.

1055. Commissioners are authorized to accept the surrender of defendants by sureties only during vacation of the court to which such defendants are bound. The facts as to the vacation of the court should be affirmatively shown in the account. (See sec. 1018, R. S. U. S.)

TESTIMONY.

1056. The per diem fee of \$5 is the only compensation provided for reducing testimony to writing. (See 4 Comp., 239.)

EXTRADITION CASES.

1057. Only those commissioners who are specially authorized by the court have jurisdiction in extradition cases. Evidence of such authorization must be furnished.

1058. Charges for services rendered in such cases should be included in the regular quarterly accounts. The fees chargeable are those prescribed in the commissioner's fee bill. (See 14 Comp., 693.)

1059. The allowance of a commissioner's fees in an extradition case, charged in an account covering the quarter during which the case was concluded, will be made only after the commissioner has transmitted to the department an itemized and certified statement showing the fees and costs of every nature in such case, including his own fees, the fees and expenses of the marshal, fees of witnesses, cost of support of prisoner or prisoners, and all other expenses incurred therein by the United States. Such statement of costs is separate and distinct from the quarterly account, and should be prepared and forwarded as soon as the total costs in the case have been ascertained.

1060. If it is found necessary to employ an interpreter in an extradition case, the matter should be taken up with the district attorney, who will make the necessary arrangements.

1061. In case the representative of the foreign Government desires to employ a stenographer to expedite the hearing, the stenographer should be paid by such representative and not by the commissioner or the marshal.

1062. No money should be received by the commissioner from any source other than the United States on account of fees or expenses of any character in connection with extradition cases.

1063. A commissioner can issue a warrant in an extradition case which will run into another district, but the defendant can not be returned to the commissioner who issued the warrant without a hearing in the district where he was arrested. (See 194 U. S., 205.)

1064. When a commissioner is engaged in hearing and deciding a criminal charge and also a case under the extradition treaty between the United States and Great Britain on the same day he is entitled, in addition to the per diem fee allowed by the commissioner's fee bill for hearing and deciding on criminal charges, to \$5 per day for the time necessarily employed in hearing and deciding the case under said treaty. (See 18 Comp., 118.)

CHINESE-EXCLUSION CASES.

1065. No warrant of arrest for violations of the Chinese-exclusion laws shall be issued by a commissioner except upon sworn complaint of a district attorney, assistant district attorney, collector, deputy collector, or inspector of customs, immigration inspector, marshal, or deputy marshal, or Chinese inspector, unless the issuing of such warrant shall first be approved or requested in writing by the district attorney of the district in which issued. (See act Mar. 3, 1901, 31 Stat. L., 1093.)

1066. For services arising under the Chinese-exclusion laws a commissioner is entitled to the fee of \$5 provided by the act of March 3, 1901, for "hearing and deciding," and to the fees provided by the act of May 28, 1896, for drawing complaints, issuing process, and for other miscellaneous services rendered in each case. (See 8 Comp., 195.)

1067. The fee of \$5 provided by the act of March 3, 1901, for commissioners "for hearing and deciding a case arising under the Chinese-exclusion laws" is not a case fee or a per diem fee, but is a specific fee chargeable in each case only upon the rendition of judgment. (See 8 Comp., 195.)

1068. If a commissioner suspends judgment in a Chinese-exclusion case to enable the defendant to present further evidence, there is no final judgment rendered by him, and he is not entitled to the fee provided by law for hearing and deciding. (See 9 Comp., 171.)

1069. If a defendant in a Chinese-exclusion case gives bond for his appearance before a commissioner for trial and afterwards defaults and forfeits his bond, and the commissioner certifies such facts to the district court, which thereupon issues a writ of scire facias for the collection of the penalty upon the bond, the commissioner is not

entitled to the fee of \$5 for "hearing and deciding" a case. (See 9 Comp., 649.)

1070. (For transcripts in Chinese-exclusion cases see par. 1033.)

DOCKETS AND PAPERS.

1071. Section 21 of the act of May 28, 1896, requires that a commissioner's docket shall be a "complete record." Outgoing commissioners must deliver this docket to the clerk of the district court. See par. 977 u. All items of service should be recorded when the services are rendered. The record of proceedings shown by the docket should cover for each case:

- (a) Name of defendant.
- (b) Name and title (if any) of person making complaint.
- (c) Date of approval of complaint by district attorney, if such approval is necessary.
- (d) Nature of offense charged, with the place and date of its alleged commission.
- (e) Place and date of arrest.
- (f) Disposition of case.
- (g) Name and residence of each witness for whom subpoena is issued or who is sworn, with information as to whether each is subpoenaed for the United States or for the defendant.
- (h) Name and residence of each surety.
- (i) Necessity for each continuance.
- (j) The date and nature of each item of service in the case, an entry of the return made by the marshal on each writ, and all other material facts.

1072. If a rule of court requires the transmission of the original papers to court, they should be sent up immediately after the close of the hearing, unless otherwise directed.

1073. When original papers are not sent to court, they should be carefully filed in an orderly manner, all the papers in each case in a separate package. The use of file boxes is desirable.

1074. Books, blank forms, stationery, dockets, etc., must be obtained by commissioners at their own expense. They are not furnished by the Government.

EXPLANATIONS.

1075. Responses to requests by the Department of Justice for information relative to accounts should be made in *duplicate*. They should be addressed to the Chief, Division of Accounts, Department of Justice.

1076. Explanations to *suspensions* by the Auditor for the State and Other Departments should be sent to the auditor. They are not

required in duplicate. They should be dated, post-office address given, and supported by the following certificate:

I hereby certify that the foregoing statement is true and correct.

(Signed)
Official title.

1077. Explanations of items *disallowed* by the auditor should be sent to the *Comptroller of the Treasury*, if a revision of the auditor's action is desired. The *disallowance* of an item concludes the auditor's action, i. e., is final.

1078. All the items suspended by the auditor in a given account should be explained at one time, but explanations pertaining to different accounts should be made in separate communications. Accounts should be designated or referred to by certificate number and period.

1079. Suspended items should be considered in regular order and designated by specifying the item number and the amount claimed. Conceded items should be so indicated and the exact amount conceded stated.

1080. Items suspended and remaining unexplained for one year will be disallowed by the auditor.

1081. Interrogatories from this Department, statements of suspensions and disallowances by the auditor, copies of answers thereto, and other correspondence relating to a commissioner's accounts, should be carefully filed in his office, separate from other matters.

APPEALS TO, AND REQUESTS FOR DECISIONS BY, THE COMPTROLLER OF THE TREASURY.

1082. Payment accepted under settlement by the auditor precludes the person so accepting from obtaining a revision.

1083. If items disallowed have been repaid and deposited, and the auditor has balanced and closed the account, revision of such items can not be obtained, there being no outstanding difference.

1084. The comptroller is without jurisdiction to consider items *standing suspended* by the auditor.

1085. Application may be made to the Comptroller of the Treasury for his decision upon any question involving a payment to be made, or (within one year after date of settlement) a decision on items disallowed by the auditor. After the expiration of a year following settlement, appeal for revision may only be made to the auditor, based upon presentation of new facts.

1086. A copy of each request for a decision whether an appeal from a settlement, or the submission of a question involving a proposed

payment, should be at once transmitted to the Department of Justice.

1087. Appeals to the comptroller should state:

- (a) The name and address of the person whose account is to be revised.
- (b) The nature of the account and the number and date of certificate of settlement.
- (c) The specific items on which decision is desired.
- (d) The objections to the auditor's disallowance and why the items are believed to be allowable.

NOTE.—When application for revision is made upon items part of which have been allowed by the auditor the warrant issued in payment, if any, must be transmitted to the comptroller with the application.

APPENDIX.

DIRECTIONS OF THE DEPARTMENT OF STATE AS TO THE PREPARATION OF PASSPORT APPLI- CATIONS.

1. EXERCISE OF CARE.

Clerks of courts who take passport applications are urged to exercise the utmost care, not only to prevent errors in the preparation of the applications, but *to satisfy themselves that the applicants and their witnesses are the persons they represent themselves to be, and that their statements are true.* In any case where a clerk of a court is not satisfied as to the identity of the applicant or his witness, or of the truth of the statements made by them, he should, in sending the application to the Department of State, accompany it with a letter stating fully the facts and circumstances and his reason for doubting the *bona fides* of the application.

2. EVIDENCE OF CITIZENSHIP.

A person born in the United States in a place where births are recorded should accompany his application with a birth certificate. A native American citizen who can not obtain a birth certificate because the records of births are incomplete or have been destroyed, should accompany his application with affidavits of his parents, or the physician who attended his birth, or some other reputable person having actual knowledge of the place and date of his birth. Naturalized citizens must submit their naturalization certificates. See sections 6 and 8 of the passport rules.

3. APPLICATIONS OF MARRIED WOMEN.

It is important to observe that the citizenship of a married woman is merged in that of her husband. Therefore, married women should state in their applications whether their husbands (and not their fathers) are native or naturalized citizens of the United States. A married woman whose husband claims American citizenship by virtue of his father's naturalization should state in her application when and where her husband was born and when he came to the United States for permanent residence, and submit with the application the naturalization certificate of her husband's father.

4. APPLICATIONS OF PERSONS BORN ABROAD OF AMERICAN PARENTS.

Persons (including unmarried women) born abroad of native American parents should use the form of application entitled, "Form for Native Citizen." A person born abroad whose parents were naturalized American citizens *at the time of his birth* should use the form entitled, "Form for Persons claiming Citizenship through Naturalization of Husband or Parent," canceling the word "naturalized" in the first line and replacing it with the word "native."

5. VISA OF PASSPORTS FOR FRANCE, GERMANY, OR RUSSIA.

Under the passport regulations of the French Government it is understood that French consular officers will not visa passports of native American citizens intending to visit France unless the applicants submit to the consular officers their birth certificates, or certified copies of the applications upon which their passports were issued. It is understood that similar requirements are made by Russian and German consuls in cases of persons applying to have their passports visaed for Russia and Germany. See the circular entitled "Notice Concerning Passports and Registration in Consulates."

6. CERTIFIED COPIES OF PASSPORT APPLICATIONS.

In case a native American citizen who desires to visit France, Germany, or Russia is unable to obtain a birth certificate, he should be advised to send to the Department of State an extra copy of his passport application. The extra copy which need not bear the court seal will be certified to (without expense to the applicant) by the Department of State, and will be returned to the applicant with his passport, in order that he may obtain the visa of the appropriate French, German, or Russian consular officer. See circular entitled, "Notice Concerning Passports and Registration in Consulates."

7. PERSONS DESIRING TO VISIT BELLIGERENT COUNTRIES.

The Department of State advises American citizens to avoid visiting unnecessarily countries which are at war, and particularly to avoid, if possible, passing through or from a belligerent country to a country which is at war therewith. The Department of State does not as a rule issue passports to enable American citizens to travel from a belligerent country to a country which is at war therewith. For example, a passport will not be issued, except in a case of extraordinary necessity, to enable a person to go from England to Germany, or vice versa. See circular entitled "Notice to American Citizens Who Contemplate Visiting Belligerent Countries."

When an applicant desires to visit a belligerent country, he must show to the satisfaction of the Department of State that it is imperative for him to do so. If he is going abroad on commercial business, his application must be supported by a letter from the head of the firm which he represents, stating the names of the countries which he intends to visit and the objects of his visits thereto.

If the applicant is going abroad for any other purpose, he must support his application with satisfactory documentary evidence substantiating his statement concerning the imperativeness of his proposed trip. For example, a person who states that he is going to a belligerent country to visit a relative who is ill should support his application with a letter from such relative, or some other person having knowledge of the illness. See section 5 of the passport rules.

8. PERSONAL DESCRIPTION.

The following suggestions are made in regard to filling out the blanks for personal description:

Age: Number of years completed at last birthday.

Forehead: High, low, broad, narrow, receding, square, or medium.

Eyes: Blue, brown, gray, green, or hazel.

Nose: Long, short, broad, pointed, retroussé, aquiline, straight, or Roman.

Mouth: Large, small, medium, thick lipped, straight, or firm.

Chin: Prominent, round, receding, pointed, long, or medium.

Hair: Black, brown, light, golden, thin, or partly bald, gray, or brown and gray.

Complexion: Dark, fair, medium, ruddy, or sallow.

Face: Round, oblong, oval, square, narrow, spare, or thin.

The above items are intended merely as suggestions. Such variations and combinations as may be necessary should be made.

9. PHOTOGRAPHS.

Photographs must be on thin paper and not smaller than 3 by 3 inches in size. The applicant must sign his photograph across its face so as not to obscure his features. Three photographs of each person mentioned in the passport application must accompany the application. See section 5 of the passport rules.

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